

**The
Economist**

Intelligence
Unit

An index and study by the Economist Intelligence Unit

Evaluating the environment for public-private partnerships in Latin America and the Caribbean



Commissioned by



The 2014 Infrascope



About this report

This document is the fourth edition of an informational tool and benchmarking index that assesses the capacity of countries in Latin America and the Caribbean to carry out sustainable public-private partnerships (PPPs) in infrastructure. This is not intended to be and should not be used for making investment decisions or drawing inferences on overall competitiveness and economic performance of a country. Therefore, the contents of the report should be read in the context of PPP capacity only and not of the enabling environment for infrastructure investment in general. Other options are available for infrastructure besides the modality of PPPs. The study is based on a methodology developed in 2009 and revised in 2010. The analysis and content of this index covers the period from May 2014 to August 2014. The index was built by The Economist Intelligence Unit (EIU) and is supported financially by the Multilateral Investment Fund (MIF), a member of the Inter-American Development Bank Group. The views and opinions expressed in this publication are those of the EIU and do not necessarily reflect the official position of the MIF.

The complete index, as well as detailed country analyses, can be viewed on these websites:
www.eiu.com/lacinfrascope2014
<http://infrascope.fomin.org>

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About The Economist Intelligence Unit

The Economist Intelligence Unit (EIU) is the research arm of The Economist Group, publisher of *The Economist*. As the world's leading provider of country intelligence, it helps governments, institutions and businesses by providing timely, reliable and impartial analysis of economic and development strategies. Through its public policy practice, the EIU provides evidence-based research for policymakers and stakeholders seeking measureable outcomes in fields ranging from gender and finance to energy and technology. It conducts research through interviews, regulatory analysis, quantitative modelling and forecasting, and displays the results via interactive data visualisation tools. Through a global network of more than 350 analysts and contributors, the EIU continuously assesses and forecasts political, economic and business conditions in over 200 countries. For more information, visit www.eiu.com.

About the Multilateral Investment Fund

The Multilateral Investment Fund (MIF), a member of the Inter-American Development Bank (IDB) Group, supports economic growth and poverty reduction in Latin America and the Caribbean through encouraging increased private investment and advancing private-sector development. It works with the private sector to develop, finance and execute innovative business models that benefit entrepreneurs and poor and low-income households; partners with a wide variety of institutions from the private, public and non-profit sectors; evaluates results; and shares lessons learned. The MIF is a laboratory for testing pioneering, market-based approaches to development, and an agent of change that seeks to broaden the reach and deepen the impact of its most successful interventions. For more information, visit www.fomin.org.



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Foreword

New estimates indicate that infrastructure investment in Latin America and the Caribbean (LAC) continues to fall short of the levels needed to improve access to goods and services, employment and finance across the region.¹ According to the Inter-American Development Bank (IDB), infrastructure investment in LAC was above 3% of GDP in the 1980s but decreased significantly since, ranging from 2% to 3% of GDP.² The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) highlight infrastructure deficits in four sectors critical to national and regional prosperity: transport, energy, water and sanitation, and telecommunications.

The 2014 Latin American and Caribbean Infrascopes measures a country's ability to mobilise private investment in infrastructure through public-private partnerships (PPPs). This is not intended to be and should not be used for making investment decisions or drawing inferences on overall competitiveness and economic performance of a country. This report marks the fourth edition of the Infrascopes, documenting progress across the region since the last index in 2012. This benchmarking and learning tool assesses countries' readiness and capacity for sustainable, long-term PPP projects by scoring aspects of the regulatory and institutional framework; project experience and success; the investment climate;

financial facilities; and subnational PPP activity in 19 countries across Latin America and the Caribbean. The Infrascopes comprises in-depth industry knowledge and analysis, interviews with country and regional field experts, a supporting literature review and comprehensive secondary research.

With improvements in PPP readiness, new management agencies and specialised experience in implementation, the overall environment for PPPs has improved since 2012. Guatemala, Honduras and Uruguay have consolidated and begun operations at newly established PPP agencies, while Paraguay and Jamaica have introduced and started implementing new specialised PPP units into their regulatory bodies. These regulatory and institutional improvements have been boosted by increasing operational maturity as more countries have gained experience with the PPP model. Top performers have effectively balanced technical and economic criteria in their project selection processes, and many countries are now including PPPs in their national development plans, demonstrating growing political support for these projects. Despite these improvements, local capital markets and financial facilities for private investment in infrastructure need to develop in order to increase financing options for PPPs. Governments with weak public finances and lax management oversight face difficulties meeting their obligations to concessionaires. In addition, they need to

¹ <http://www.cepal.org/Transporte/noticias/bolfall/2/53972/FAL-332-WEB.pdf> and <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=38579555>

² IDB Infrastructure Strategy, November 2013, p. 8: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=38579555>

streamline operations so that they run more smoothly and efficiently.

Ensuring the availability of financing for PPPs is critical to satisfying the infrastructure investment requirements in Latin America and the Caribbean. According to the IDB, LAC needs to invest approximately 5% of GDP (an amount equivalent to US\$250 billion in 2010) in infrastructure over a long period in order to close the infrastructure gap.³ Similar estimates by ECLAC place the needed investments at 6.2% of their GDP (around US\$320bn) annually through to 2020 to meet the increasing demand for infrastructure.⁴ This is a lofty goal. In the previous decade the region invested between 2-3% of GDP in infrastructure development.

To meet their growing needs, Brazil and Mexico plan to invest significant sums in infrastructure projects through to 2020. Brazil expects to spend nearly US\$900bn, and Mexico has committed US\$300bn over the next three years. These two countries lead the Infrascopes in terms of

subnational PPP activity, with Brazil receiving the highest possible score in this year's survey. The 2014 Infrascopes highlights countries' recent developments and successes as well as PPP experiences at the subnational level in a special *In focus* article in this report. In Brazil, subnational PPPs far outnumber federal PPPs, accounting for 85% of the total by one measure. Although Mexico's 29 federal PPPs outnumber its 20 subnational projects, the country's subnational activity is impressive. The short-term political cycle in Mexico has been a limiting factor as the time required to plan and implement PPPs exceeds the three-year electoral cycle faced by many state- and local-level politicians. Subnational PPPs across the region have considerable potential to grow. Based on regulatory and institutional frameworks that facilitate subnational PPPs, as well as on some experience in developing these projects, Chile, Colombia and Peru are expected to increase subnational activity in the coming years. ■

³ IDB Infrastructure Strategy, November 2013 p. 7: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=38579555>

⁴ <http://www.cepal.org/en/pressreleases/paises-de-la-region-deberian-invertir-62-del-pib-anual-para-satisfacer-demandas-de>



Infrascopes Categories and Indicators

The Infrascopes index comprises 19 indicators, both qualitative and quantitative in nature. Data for the quantitative indicators are drawn from the Risk Briefing service of The Economist Intelligence Unit (EIU) and from the World Bank. Gaps in the quantitative data have been filled by estimates that have been developed by the EIU project team.

The qualitative data come from a range of primary sources (legal texts, government websites, press reports and interviews), secondary reports and data sources adjusted by the EIU. The main sources used in the index are the EIU, the World Bank, Transparency International and the World Economic Forum.

The categories and their associated indicators are as follows (Appendix II provides detailed definitions of the categories and indicators):

1. Legal and regulatory framework (weighted 25%)

- 1.1 Consistency and quality of PPP regulations
- 1.2 Effective PPP selection and decision-making
- 1.3 Fairness/openness of bids, contract changes
- 1.4 Dispute-resolution mechanisms

2. Institutional framework (weighted 20%)

- 2.1 Quality of institutional design
- 2.2 PPP contract, hold-up and expropriation risk

3. Operational maturity (weighted 15%)

- 3.1 Public capacity to plan and oversee PPPs
- 3.2 Methods and criteria for awarding projects
- 3.3 Regulators' risk-allocation record
- 3.4 Experience in transport, water and electricity concessions
- 3.5 Quality of transport and water concessions

4. Investment climate (weighted 15%)

- 4.1 Political distortion
- 4.2 Business environment
- 4.3 Political will

5. Financial facilities (weighted 15%)

- 5.1 Government payment risk
- 5.2 Capital market: private infrastructure finance
- 5.3 Marketable debt
- 5.4 Government support and affordability for low-income users

6. Subnational adjustment factor (weighted 10%)

- 6.1 Subnational adjustment

Overall scores and key findings

Table 1: **OVERALL SCORES 2014**

	Rank		2014 score	▲
	1	Chile	76.6	+0.2
	2	Brazil	75.4	+3.8
	3	Peru	70.5	+0.9
	4	Mexico	67.8	+4.8
	5	Colombia	61.0	+1.4
	6	Uruguay	52.9	+3.4
	7	Guatemala	46.3	+2.8
	8	Jamaica	44.4	+14.1
	9	El Salvador	41.6	+2.3
	10	Costa Rica	39.0	-
	11	Honduras	37.7	+3.7
	=12	Paraguay	37.0	+7.1
	=12	Trinidad & Tobago	37.0	+2.6
	14	Panama	34.0	-
	15	Dominican Republic	24.2	-1.8
	16	Ecuador	22.1	+2.1
	17	Nicaragua	20.6	-
	18	Argentina	16.0	-1.6
	19	Venezuela	3.2	-2.1

MATURE (80-100)

DEVELOPED (60-79.9)

EMERGING (30-59.9)

NASCENT (0-29.9)

Table 2: **Change in rank, 2014 compared with 2012****Rank improved**

	2012 Rank	2014 Rank	▲
Jamaica	13	8	+5
Paraguay	14	=12	+2
Ecuador	17	16	+1

Rank deteriorated

	2012 Rank	2014 Rank	▲
Panama	=11	14	-3
Trinidad & Tobago	10	=12	-2
Costa Rica	9	10	-1
El Salvador	8	9	-1
Nicaragua	16	17	-1

No change in rank

	2012 Rank	2014 Rank	▲
Argentina	18	18	-
Brazil	2	2	-
Chile	1	1	-
Colombia	5	5	-
Dominican Republic	15	15	-
Guatemala	7	7	-
Honduras	=11	11	-
Mexico	4	4	-
Peru	3	3	-
Uruguay	6	6	-
Venezuela	19	19	-

● **As a whole, the infrastructure PPP-readiness of the region has improved since 2009**

Since the first Infrascopes benchmarking study in 2009, the scores for most countries have increased in each subsequent edition, with the average overall score for the region improving by nearly 10 points between 2009 and 2014 (from 32.9 to 42.5). Moreover, the scores in all six categories have improved since 2009. The regulatory and institutional framework categories have had the most significant improvement as many countries have updated their PPP and concession laws and set up new PPP agencies or specialised units within existing institutions. The regional climate for private infrastructure investment has also strengthened over time. However, financial facilities in support of PPPs have demonstrated the

slowest rate of progress. In fact, the average score in this category has stagnated since 2012, indicating little change in terms of deepening financial markets or tools and products that facilitate private infrastructure investment.

● **Chile continues to lead Latin America and the Caribbean in PPP-readiness and capacity**

Chile is at or near the top of all of the category rankings, including its regulatory and institutional framework, but lags in terms of subnational activity. The legal framework allows for PPP projects, but unlike in other leaders in the region, most PPP activity in Chile is still centralised at the national level. The country's financial system is the deepest and most sophisticated in the region owing to its broad investor base, vibrant securities

Figure 1

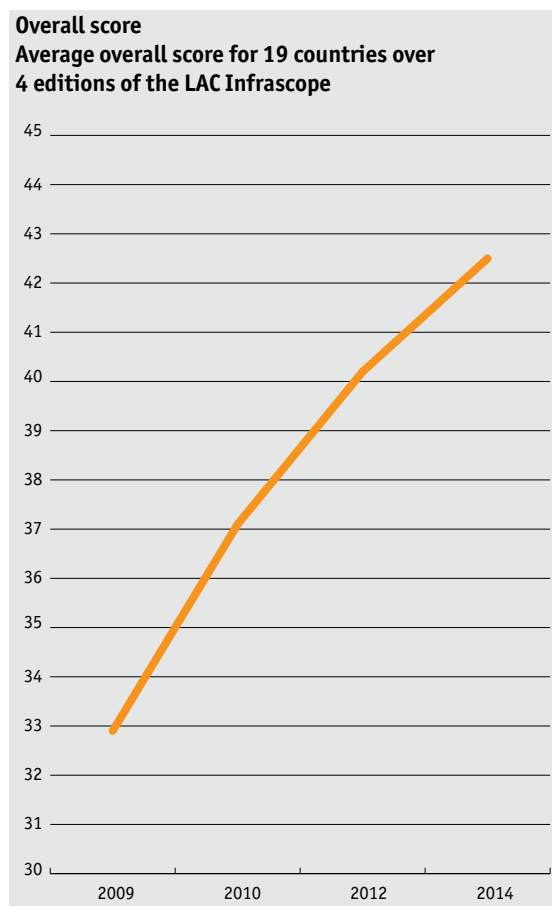
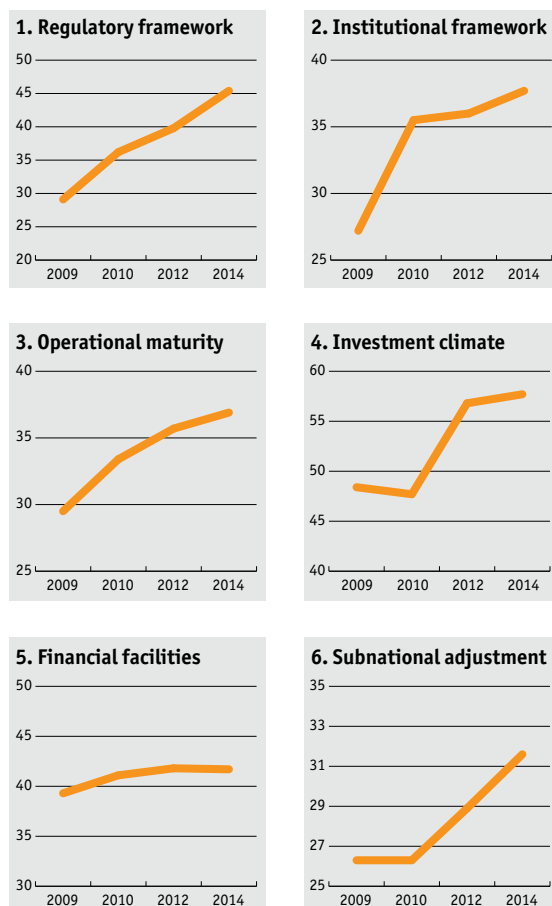


Figure 2



market and updated regulatory framework. Second-ranked **Brazil** features broad experience with PPPs at both the national and the subnational level and has worked to build institutional knowledge. However, given the workload placed on the government, technical capacity has been the main bottleneck for increasing PPP implementation. **Peru** has increased its score on operational maturity as the number of recently developed projects (17 since mid-2012)¹ has helped to build capacity in the public sector, keeping the country's overall rank at number three.

● **Regulatory and institutional improvements drive strong performances in Jamaica and Paraguay**

Jamaica and Paraguay recorded the largest overall score increases, based on improvements to both their regulatory and institutional environments. **Jamaica's** national PPP policy and new PPP unit, combined with an improved investment climate, should enable PPPs to move forward, but weak financial facilities mean that they will probably rely on external funding. A 2013 law in **Paraguay** broadly defined PPPs and set up rules and institutions to govern them. In Honduras, Mexico, El Salvador and Trinidad and Tobago, regulatory framework scores also improved significantly. In **Honduras** bidding for new PPPs has been more open and transparent, and the government has complied with the legally stipulated timelines and made documentation available online. Moreover, since 2012 Honduras has improved its framework for resolving disputes with the codification of specific negotiation and arbitration terms included in PPP contracts that include timelines, arbitration guidelines, and criteria for determining whether arbitration will be conducted using technical or legal standards. In **Mexico**, regulatory changes in late 2012 have strengthened the PPP selection and decision making process, specifying the types of assessments required before implementing new PPPs. Moreover, legislation establishes equal rights for local or foreign firms and requires bidding

processes with ample public notification and that all projects be awarded through competitive bidding. **El Salvador's** special law on PPPs has created an enabling environment for PPPs, but the private sector remains unsure of how long the political support for PPPs will last. **Trinidad and Tobago's** national PPP policy, approved in 2012, provides an institutional framework, but the country still lacks the expertise to manage projects.

● **Score gaps between some countries have narrowed**

Brazil (ranked 2nd) nearly caught up with Chile in this year's ranking after the country improved its financial facilities for PPPs and achieved the top ranking for subnational PPPs. Chile's already strong PPP environment, meanwhile, remained largely unchanged. At the same time, Mexico (ranked 4th) narrowed the gap with third-ranked Peru, the result of improvements to its regulatory framework and an enhanced investment climate. Moreover, **Ecuador** (ranked 16th) has nearly caught up with the Dominican Republic (ranked 15th) mainly due to a more favourable political and business environment as well as better targeting of subsidies to low income users.

● **Select countries remain at the bottom of the ranking and recorded further declines in scores**

At the bottom of the 2014 Infrascopes, the **Dominican Republic, Argentina** and **Venezuela** were the only countries whose overall scores fell from the previous edition. In all three countries the investment climate for PPPs worsened, while a decrease in the number of projects in Argentina pulled its Operational maturity score down. In Venezuela, an unstable macroeconomic and policy framework has affected private sector capital for infrastructure financing reducing its score on the financial facilities category. In the Dominican Republic, political and public scepticism has shifted the policy focus from PPPs to traditional public infrastructure investment. The government has cancelled highway concessions, decided to re-enter electricity generation and criticised the Aerodom airports concession, long considered a

1 <http://www.proyectosapp.pe/modulos/JER/PlantillaStandard.aspx?are=1&prf=2&jer=6867&sec=30>

successful example of PPP on the island.

- **Project selection criteria have improved**

Improvements to regulatory frameworks and institutional capacity-building have contributed to enhanced project selection processes: at least 12 of the 19 countries included in the 2014 Infrascopes utilise either a cost-benefit or value-for-money analysis for project selection, and at least four countries use both types of analysis, including Brazil, El Salvador, Uruguay and Mexico.

- **Government finances could hamper PPP development in some countries**

Although many governments view PPPs as an alternative financing mechanism that can help avoid public debt, government debt must be stable in order to partner effectively with private investors. Relatively small countries that seek to expand their PPP programmes, such as Honduras and Jamaica, could face difficulties finding investors if their macroeconomic situations are at risk owing to unstable public finances. Honduras's sovereign risk has been downgraded since 2012, and the government must follow through on plans to adjust public expenditure. The IMF has called on Honduras to improve its public accounting of contingent liabilities contained in the contracts governing PPPs already in implementation. In Jamaica, the public debt/GDP ratio is among the highest in the world, and the macroeconomic environment will continue to constrain the government budget. In Nicaragua, large unfunded liabilities remain a risk to public-sector finances as the country considers the potential for PPP investment in infrastructure.

- **PPP oversight and supervision are not separated from planning and implementation in many countries**

PPP oversight and supervision systems vary widely in the LAC region. The OECD recommends independent public oversight of PPPs because it contributes to public-sector innovation and improved outcomes for the broader society by increasing accountability and social control, but this is not the case in many countries.² Honduras separates PPP supervision and oversight from preparation and implementation, dividing responsibilities between two different agencies, but in practice the implementing agency has performed oversight tasks while the oversight agency increases its capacity. Costa Rica's model is similar, with the concessions council handling both implementation and supervision. However, in Costa Rica the national comptroller can review the council's supervisory work and has done so for some highway concessions. Even among some leading countries in the Infrascopes, PPP oversight could improve significantly. Chile's institutional set-up lacks sufficient checks and balances because project promotion, preparation, co-ordination and supervision are bundled together in a single ministerial office. In Colombia, there are no oversight institutions to act as a counterweight to the concessions unit, meaning contracts and their modifications are not publicised and no independent regulatory body oversees service quality. While granting authority is not centralised in a single unit or agency in Mexico, the agencies that do award PPP contracts are not subject to any significant independent oversight.

² <http://www.oecd.org/governance/50254119.pdf>

In focus

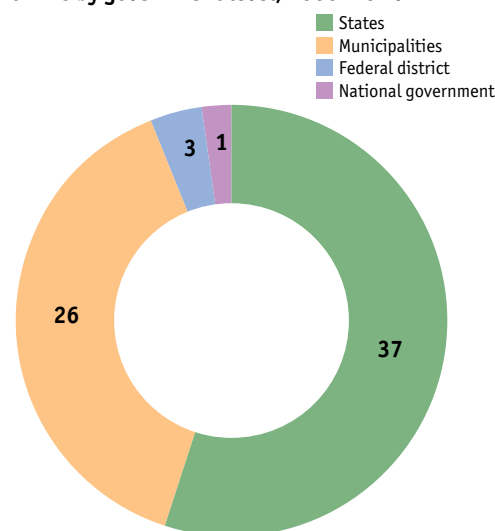
Brazil and Mexico: PPPs at the subnational level

The potential for public-private partnerships (PPPs) in Latin America is significant, given the rising demand for social and physical infrastructure. However, at the subnational level there is a set of challenges linked to administrative capacity, the legal and regulatory framework, contract design, financing issues and, last but not least, political will by the public authorities to embrace PPPs. The following article explores the PPP experiences at the subnational level in both Mexico and Brazil with the aim of showcasing some of the trends and challenges in two of the most active countries in this area.

The case of Brazil

As in the US, Canada and Mexico, in Brazil it is at the subnational, rather than at the federal level, that most of the activity in PPPs is now concentrated. According to a database provided by Radar PPP, a Brazilian consultancy, there have been 66 signed PPP contracts with public subsidies at the subnational (state and city) level and only one at the federal level (see Figure 1). This amounts to an estimated US\$160bn in capitalisation, with a further US\$20bn worth of PPPs in the pipeline. Including other PPPs that do not imply public subsidies, subnational PPPs

Figure 1
Brazil PPPs by government level, 2006–2014



Source: Radar PPP, www.radarppp.com

account for around 85% of the total, according to estimates by Marcos Siqueira, the adviser to the president of the Minas Gerais state development bank and one of Brazil's leading PPP experts.

Brazil's federal laws provide an enabling framework, and there is no need for cities or state governments to introduce specific PPP legislation. Where specific laws have been introduced at the subnational level, they mainly represent a political statement of support for PPPs. Hence the legal framework is adequate, although as in Mexico, it could do with greater clarity regarding how contracts should be designed.

Subnational PPPs face challenges at different levels

Subnational PPPs in Brazil face a large set of challenges, which are different from those faced by the federal government. The first is related to the private sector's perception of risk, given that subnational governments do not hold sovereign fiscal ability. This is an issue faced by countries across Latin America, including Mexico. Subnational governments have a lower credit rating than the national government, hence the risk of default is higher. As a result, across all 66 subnational PPPs in Brazil the contracts have had to include a type of guarantee or collateral by the respective subnational governments. This raises the question of value for money of the PPP projects and reduces the capacity of subnational governments to carry them out. Moreover, as noted by Mauricio Portugal, a lawyer specialising in infrastructure concessions at the law firm Portugal Ribeiro Advogados, subnational entities are running out of guarantees or collateral to stump up for new PPP projects, potentially constraining activity going forward.

Second, the capacity of subnational governments to structure complex PPP contracts is limited and varies a lot by state and municipality. In some cases it is practically non-existent. According to Mr Portugal, it is very rare to find public officials involved in PPPs who have had experience in the private sector. This is partly because of hiring rigidities in the public sector, as well as lower salaries offered. Many officials in PPP units have one or two years of experience, and few have the five or more years of experience in infrastructure deals considered to be a minimum amount of time given the long project cycles.

In subnational entities, where there is limited administrative capacity to structure and prepare contracts, the focus has been on unsolicited contracts—between 200–300 in the last two years—where consultants are hired by the private sector to draft projects. But of course these projects come with biases that may not necessarily be in the best public interest, and this also potentially raises the costs of the project, according to Mr Siqueira.

A third major challenge is taxation. The Brazilian tax system is so complicated that whenever there is a public subsidy paid to a private company in a PPP scheme, the private company has to pay a high level of tax to the federal government. This increases the cost of the project and also means that the subnational government in charge of the PPP project is in effect transferring tax to the federal government without receiving it back. Despite some efforts to resolve this problem, there have so far been no tangible advances.

Transparency is a fourth challenge that subnational PPPs encounter. According to Mr Siqueira, one significant problem that needs to be addressed from the regulatory standpoint relates to concerns over public scrutiny of the financial liabilities of subnational PPPs. He considers that subnational entities should not be allowed to put the liabilities off their balance sheets. Currently the main limiting factor to this practice is that the private sector demands collateral, which requires the subnational entities to prove an asset. The second factor subnational governments face is that they cannot allocate more than 5% (increased from 3% in 2011) of their tax revenue. But this captures only the explicit commitments in the regular payments to the private sector and does not capture contingent liabilities. Taking the 66 subnational PPPs together, the scale of the contingent liabilities is unknown. This is a concern, particularly given the fragility of the finances of many of Brazil's states and cities.

Another challenge affecting the success of some subnational PPPs stems from the public sector's reluctance to absorb project-related risks and instead placing these in the realm of the private-sector partner (for example, environmental and geological risks in the construction of metro lines or exposure to price changes in real estate that is acquired as part of a project, including expropriating people), which leads the private sector to increase provisioning levels in the contract, raising project costs. This is an area that Mr Portugal believes has been poorly managed in Brazil. Also, the ability of subnational entities to provide guarantees is becoming stretched, and

other financing mechanisms need to be devised.

There are also environmental risks, including delays in obtaining licences. Mr Portugal notes that the staff at state-level environmental agencies are much better qualified than in the past and that delays are now caused by a lack of sufficient people required for the workload. Other risks relate to the occasional need to re-order existing infrastructure (moving a gas pipeline while constructing a road, for instance) during the construction phase of the project.

Minas Gerais, Bahia and São Paulo lead the way

There have been PPP initiatives in most of the Brazil's states, in the Federal District (where the capital, Brasília, is located) and in many municipalities. However, experiences across Brazilian states and municipalities have been varied. According to Radar PPP three states (Minas Gerais, Bahia and São Paulo) account for around one-third of total PPP activity in Brazil. Minas Gerais leads the way with seven PPP contracts, followed by São Paulo with five and Bahia with four (excluding a pending contact for a new hospital). Pernambuco has also been quite active with two or three contracts. At the

city (municipal) level, Rio de Janeiro, Belo Horizonte and the Federal District are leading the effort. Taken as a whole at the subnational level, PPPs are distributed fairly widely across different sectors, led by sanitation, solid waste, health and urban train transport (see Figure 2).

For instance, Minas Gerais has quite a broad PPP programme spanning education, health, solid waste management, roads, airports and an internationally renowned prison complex. Minas Gerais has also pioneered green PPPs in the eco-tourism sector.

Other than the large number of PPPs carried out in the state, the Minas Gerais experience is valuable because of the demonstrative effects for other subnational entities from the standpoint of the internal capacity that it has established, and its ability to communicate with the private sector.

Case study

Belo Horizonte schools (Minas Gerais)

The municipality of Belo Horizonte has made early education a priority, but its efforts have been hampered by technical and financial limitations. With support from the International Finance Corporation (IFC), it turned to private-sector funding and expertise to expand and strengthen its preschool and primary school system. The concession—Brazil's first public-private partnership in the education sector—was awarded in July 2012.

The 20-year concession to construct 32 preschool facilities and five primary schools was won by the Educator Consortium led by Odebrecht, a leading Brazilian construction company. The consortium will also operate non-pedagogical services, such as maintenance and security—freeing up the municipal authorities to concentrate on the quality of educational delivery. The private partner will be assessed according to a set of performance and availability indicators, which will then be assessed on a cost basis.

Figure 2
Brazil's subnational PPPs per sector, 2006-2014



Source: Radar PPP, www.radarppp.com

Case study

Subúrbio Hospital Project (Bahia)

In April 2009 the Bahia state government engaged the IFC to help implement a PPP for the operation and management of the Hospital do Subúrbio, which was already under construction. The transaction closed on May 28th 2010 and a new 298-bed hospital opened in the same year. The project was structured as a ten-year

concession contract that transferred the hospital's operation and management—including clinical and non-clinical services—to the private partner. The transaction was structured in such a way that payment to the concessionaire is linked to key performance indicators based on quantitative and qualitative targets, thus creating incentives for high levels of performance. Since the launch of this successful PPP (the first in the sector in Brazil), six other Brazilian states have begun developing PPPs in the healthcare sector.

Bahia, in the north-east, is regarded by many to be the next-most-developed state in terms of these PPP capacities. After some problems in the early stages, São Paulo state has improved lately and is catching up with the leaders in terms of its PPP capacities.

The case of Mexico

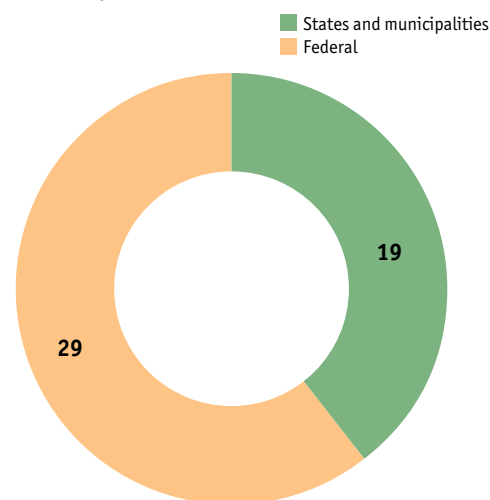
There has been less activity in the subnational PPP space in Mexico. There have been a little over 20 subnational PPPs (including road concessions) and 29 PPPs and concessions at the federal level, according to the Programme for the Promotion of Public-Private Partnerships in Mexican States (Programa para el Impulso de Asociaciones Público-Privadas en Estados Mexicanos—PIAPPEM), and the International Development Bank's Multilateral Investment Fund (MIF), which provides the Mexican public authorities with technical and legal support (see Figures 3 and 4). PIAPPEM collaborates closely with 13 of Mexico's 32 states, but representatives of all states have been involved. The Mexican subnational experience shows that there are similar challenges to those faced in Brazil, such as administrative capacity, the legal and regulatory framework, contract design, financing issues and political will.

A sound legal framework

When the federal government passed the Law of Public-Private Partnerships (Ley de Asociaciones Público Privadas) in January 2012, it provided a broader, enabling framework for PPPs at all levels

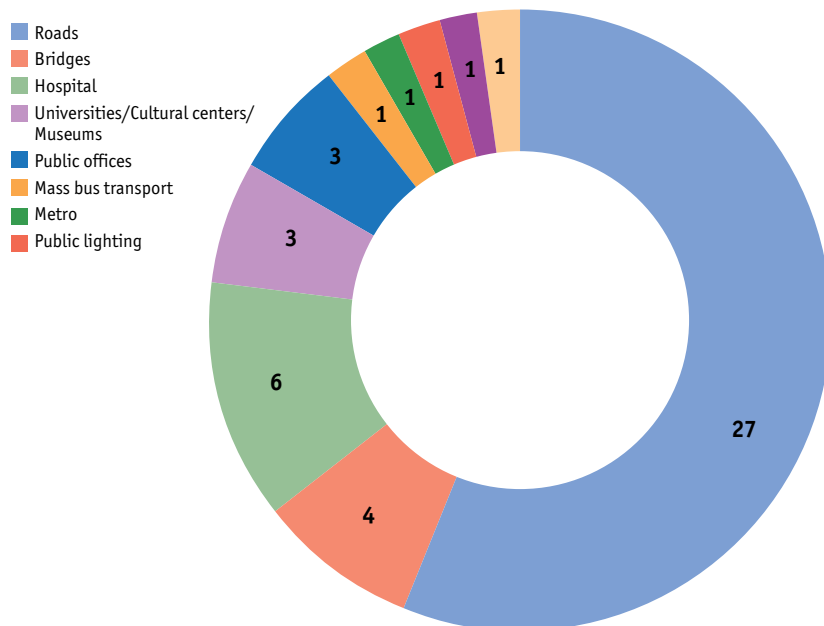
of government. Notably, it improved federal legislation introduced a decade earlier and a raft of facilitating, state-level bills enacted since 2006 in nearly all states. The new law also paved the way for PPPs in new sectors such as national security, leading to innovative prison projects—of particular significance given Mexico's crime wave. The law allowed for unsolicited proposals from the private sector, something that has helped to increase activity. That said, companies are often unaware of the financial capacities of subnational entities, which creates inefficiencies in the planning process. Overall, though, the boom in PPPs at the federal as well as the state level that the law was expected to produce has not yet materialised, according to Eduardo Morín Maya, co-ordinator of

Figure 3
Mexico PPPs by government level, 2003-2012



Source: PIAPPEM, www.piappem.org

Figure 4
Mexico—All PPPs by sector, 2003-2012



Source: Radar PPP, www.radarppp.com

the PIAPPEM. Hence, improving the legal and regulatory framework is a “necessary but not sufficient” condition, according to Mr Morín.

At the forefront are the states of Mexico and Nuevo León, reflecting their more advanced administrative capacities as well as their more developed economies and larger populations, which create greater demand for improvements in social and physical infrastructure. The qualifications of the civil servants in these states are comparable to those of their counterparts in the federal government, and in many cases they have previously worked at the federal government

level in the finance or economy ministries. While recognising Mexico and Nuevo León as the leading states in the field, Sergio Montano, a PPP expert and CEO for Mexico of McBains Cooper, a British infrastructure specialist, considers that some central states, such as Querétaro and Guanajuato, have also reached an acceptable level of maturity in terms of their capacity to implement PPPs. The Federal District also features, as do the states of Veracruz and Sonora. Yucatán also embraces subnational PPPs, particularly in agro-industry and tourism as well as in hospitals, and currently enjoys greater public security than other states.

Administrative capacities are often found wanting

Many states lack dedicated PPP units, impairing their capacity to identify, structure and auction projects as well as supervise them when they are in the construction and operation phases. State officials’ experience with PPPs is limited, even though there is considerable expertise in dealing with traditional public procurement projects with the private sector. Significant staff turnover within the state government is also a problem obstructing PPPs, and this leads to the authorities opting for traditional procurement practices.

While the state of Mexico was in the vanguard, many officials in that administration moved to the federal government following the election of the state governor, Enrique Peña Nieto, to the presidency in 2012. Therefore, there has been a significant lack of continuity, with the new

Case study

Toluca and Tlalnepantla hospitals

The IFC advised Mexico’s Social Security Institute on the structure and implementation of a PPP for the design, construction, capital financing and management of two new public hospitals in Toluca and Tlalnepantla. The winning bidders were the Prodemex and Marhnos consortia, respectively, with each committed to invest

US\$60m in the hospitals.

The contracts were structured so that the state is responsible for the hospitals’ doctors, nurses and medical supplies, while the private sector carried out construction and provides facility and equipment management as well as the delivery of most of the diagnostic services for the 25-year duration of the contracts. As a result, the overall operating cost of the hospitals was reduced by one-third.

government of the state of Mexico being less active in terms of identifying projects. The new administration has pushed ahead with a hospital in Tlalnepantla, but this was one of a number of hospital projects already identified.

Project guarantees are a burning issue

At the national level, Mexico's macroeconomic stability, low inflation, comfortable foreign reserve position, flexible exchange-rate regime and manageable public debt/GDP ratios help to contain economic risks for investors. And while Brazilian subnational entities are restricted in the share of revenue (5%) that they can allocate to PPPs, in Mexico the rules are more flexible in this respect. However, states have had difficulties in using legally mandated, federal-to-state transfers as financial guarantees because these resources had been ring-fenced. There have been some attempts to overcome this, such as setting up trust funds with resources from these transfers as guarantees.

According to Mr Montano, persuading politicians that PPPs run by the private sector can deliver a better quality of service and more value for money has been challenging. In the past they considered pursuing infrastructure projects through PPPs as an expedient short-term solution to address a bottleneck and defray costs into the future through financing mechanisms.

Given the electoral cycle, many state-level authorities have a relatively short political horizon, and this has created problems given that planning and implementing PPPs most often requires a longer-term gestation cycle. One solution is to encourage state officials managing PPP programmes to pursue projects that are less sensitive to the political cycle.

Considerable potential for subnational PPPs

While there has been greater activity in subnational PPPs in Brazil than in Mexico, the experiences in these two countries indicate that they share similar challenges. Going forward in Brazil, there is considerable potential if the agenda (federal-state tax harmonisation, subnational credit ratings, capacity-building, fiscal transparency and others) is given priority by the government that takes office in January 2015. Indeed, as the massive street protests of mid-2013 demonstrated, Brazilians are now putting governments under greater pressure than ever before to deliver improvements in urban mobility, education, health and other public services. And it is here that PPPs could play a key role in helping to resolve bottlenecks.

Likewise in Mexico, many PPP experts see considerable opportunities, given the demand for greater social and physical infrastructure. However, there needs to be greater political drive to adopt PPPs at the subnational level, which has partly to do with a need for greater and more active participation from the federal government, particularly in terms of providing financing guarantees, as states are concerned about the longer-term liabilities implied by the PPPs. Also, the normative legislation could do with greater clarity with regard to the detailed specifics of the project contract. More broadly, a strengthening of the institutional, technical, legal and organisational framework would facilitate the environment for PPPs.

This article was prepared by Robert Wood. The author would like to thank Sergio Montano, Eduardo Morín Maya, Mauricio Portugal and Marcos Siqueira for their interviews.

Category scores

1. Regulatory framework

- Regulatory overhauls and improvements have continued to be rolled out across the region since 2012**

Jamaica and Honduras had the highest score increase in this category due to regulatory improvements and implementation of new PPP laws, enhancing the fairness of contracting processes and strengthening dispute resolution mechanisms. Both El Salvador and Paraguay increased their scores after passing PPP framework laws in 2013. Jamaica updated its PPP policy in late 2012 and began implementing in 2014. Jamaica's policy enables PPPs in all sectors, whereas El Salvador's framework excludes the water sector. The government of Paraguay is exploring concessions in the transport and electricity sectors, although the law is not specific to these areas.

- Cost-benefit and value-for-money analyses become more widespread**

Ten of the 19 countries in this study improved their regulatory framework scores, including both Mexico and Colombia, which improved PPP selection and decision-making. Conducting a cost-benefit analysis for the selection of PPP projects is mandatory in both countries. In addition, Mexico requires assessments of environmental and social impact, financial feasibility, and value-for-money analysis before approving PPPs. Although still lagging the top five performers in this category, Guatemala also requires value-for-money analysis and has received accounting training from the Multilateral Investment Fund-Inter-American Development Bank.

- Dispute-resolution mechanisms need improvement**

Dispute resolution is the weakest component of the regulatory framework across all countries in the region. In all but three countries (Chile, Mexico and Peru), dispute-resolution mechanisms lack transparency and efficiency or create processes that are too lengthy and

1. REGULATORY FRAMEWORK

Rank		Score	▲
=1	Chile	75.0	-
=1	Mexico	75.0	+9.4
=1	Peru	75.0	-
4	Colombia	68.8	+6.3
5	Brazil	65.6	-
=6	Guatemala	59.4	+6.3
=6	Jamaica	59.4	+34.4
8	Uruguay	56.3	-
9	El Salvador	46.9	+9.4
10	Honduras	43.8	+18.8
=11	Costa Rica	40.6	-
=11	Panama	40.6	-
=11	Paraguay	40.6	+9.3
14	Trinidad & Tobago	34.4	+9.4
=15	Dominican Republic	25.0	-
=15	Ecuador	25.0	+3.1
17	Nicaragua	21.9	-
18	Argentina	9.4	-
19	Venezuela	0.0	-

complex. In Uruguay, the arbitration mechanism has not yet been tested since the PPP law was implemented in late 2011. Trinidad and Tobago's current PPP policy does not include dispute-resolution mechanisms. Meanwhile, such schemes exist in Brazil, but they could benefit from improvements, such as a permanent dispute settlement board that would deal with technical disputes (engineering, architecture and quality). Chile's system includes an arbitration panel that allows parties to settle disputes before going to court and resolves disagreements with reasonable speed and efficiency.

2. Institutional framework

● Regulatory upgrades create new PPP units

Two countries in the 2014 Infrascopes, Jamaica and Paraguay, demonstrated regulatory improvements that enhanced their institutional frameworks. Jamaica's development bank houses a PPP unit that manages projects after receiving approval from a cabinet committee at the concept, business case and transaction stages. Projects also require specific approval from the Ministry of Finance. Paraguay's Ministry of Planning is the home of the country's PPP unit, which develops, executes and co-ordinates PPPs in all sectors except for transport and communications projects, which are coordinated by the Ministry of Public Works and Communications. The Ministry of Finance monitors the country's fiscal exposure resulting from PPPs, including contingent and actual liabilities. In El Salvador, institutional updates have not yet been implemented. The 2013 PPP law calls for a new PPP unit within the Ministry of Finance, but changes to the law approved in 2014 have shifted this role to the export and investment promotion agency.

● Planning and promotion are more likely to be centralised

Among the top-ranked countries in this category, Chile's model is the most centralised. An office in the Ministry of Public Works promotes projects, co-ordinates their preparation and supervises their construction and operation. In Peru, the investment promotion agency handles transactions and promotion for PPPs in all sectors, but responsibility for other stages is spread across different institutions. In Brazil, assessment of potential PPPs is concentrated at the Ministry of Planning, Budget and Management, while different sectoral agencies deal with implementation.

2. INSTITUTIONAL FRAMEWORK

Rank		Score	▲
=1	Brazil	75.0	-
=1	Chile	75.0	-
=1	Peru	75.0	-
4	Mexico	58.3	-
=5	Colombia	50.0	-
=5	Guatemala	50.0	-
=5	Honduras	50.0	-
=5	Uruguay	50.0	-
=9	Jamaica	41.7	+16.7
=9	Paraguay	41.7	+16.7
=11	Costa Rica	33.3	-
=11	El Salvador	33.3	-
=13	Nicaragua	25.0	-
=13	Trinidad & Tobago	25.0	-
15	Argentina	16.7	-
=16	Dominican Republic	8.3	-
=16	Panama	8.3	-
=18	Ecuador	0.0	-
=18	Venezuela	0.0	-

Rounding out the top five, the models of Mexico and Colombia are significantly more decentralised. In Mexico, each level of government and sectoral ministry is responsible for planning, implementing and supervising PPPs. No institution at the ministerial level exists to oversee or establish policies for the entire system. The situation is similar in Colombia, although the Department of National Planning oversees investment in all sectors.

3. Operational maturity

- **Project experience builds institutional knowledge, supplemented by international and domestic training and support**

Peru and Uruguay have improved their capacity to plan and oversee PPPs since the 2013 Infrascopes, improving their overall performance in the category. The number of projects developed in Peru has strengthened public-sector capacity for managing PPPs, particularly in the electricity-generation sector, where planning and oversight for private investment have been streamlined significantly. While Uruguay's experience with PPPs is still limited, the country's institutions are strong and have received technical training on PPPs from multilateral and academic organisations, as well as independent consultants.

- **Top performers balance technical and economic criteria in project selection**

With a high category score, Chile's project contracting office in the transport sector selects projects based on net present value once proposals satisfy experience, technical and quality requirements. Selection processes in Brazil place more emphasis on economic factors, but do not consider net present value for road concessions. Newer investment programmes have increased the transparency and objectivity in project selection. The quality and private participation in recent tenders in the electricity industry contributed to Guatemala's improvement on this indicator, although other sectors suffer from low levels of transparency. In Jamaica, the PPP law created a system of checks and balances and increased focus on economic factors for project selection, which increased the country's score, but there are still opportunities for political factors to influence the process.

- **Laws require efficient risk allocation, but the practice needs improvement**

Overall, regulators' risk-allocation record was the lowest-scoring indicator in this category. Chile and Peru are the top performers on this indicator, but still faced challenges with project renegotiations. However, Peru has reduced the amount of government resources spent on renegotiation in recent years. In Brazil, the expiration of some electricity concessions

3. OPERATIONAL MATURITY

Rank		Score	▲
1	Brazil	78.1	-
2	Chile	71.9	-
3	Peru	59.4	+6.3
=4	Colombia	53.1	-
=4	Uruguay	53.1	+6.2
6	Mexico	50.0	-
7	Costa Rica	43.8	-
8	Guatemala	37.5	+9.4
9	Jamaica	34.4	+3.1
=10	El Salvador	31.3	-
=10	Honduras	31.3	-
12	Dominican Republic	25.0	-
=13	Ecuador	21.9	+3.1
=13	Nicaragua	21.9	-
=13	Paraguay	21.9	-
=13	Trinidad & Tobago	21.9	-
=17	Argentina	18.8	-6.2
=17	Panama	18.8	-
19	Venezuela	6.3	-

and disagreements regarding their residual value resulted in some operators abandoning the concessions. Jamaica's PPP law requires evaluation of optimal risk allocation at several stages during the development of a PPP. Meanwhile, the IMF has called on Honduras to limit risks associated with government debt guarantees and contingent liabilities. Insufficient risk allocation in the transport sector in the Dominican Republic has contributed to a shift away from highway concessions for road development. Ecuador was the only country to improve its score on this indicator since 2012, as the Quito airport concession demonstrated improvements in risk allocation. In contrast to past projects, the airport concession did not require the government to maintain the project's financial equilibrium and allocated all commercial and capital-allocation risk to the concessionaire.

4. Investment climate

- The top six performers in this category are also the highest-ranked countries overall in the 2014 Infrascope (although their order varies), demonstrating the connection between political support for PPPs and performance in other categories, such as regulatory and institutional frameworks

The need for infrastructure to drive continued economic growth has bolstered political support for PPPs in Brazil. Peru awarded nearly US\$11bn in PPPs from 2011 to 2014, while Chile's transport plan for the period to 2020 anticipates US\$9bn in concession projects.

- National development plans demonstrate support for PPPs

Since 2012 both Uruguay and Mexico, which have been two of the biggest gainers in this category, have demonstrated their support for PPPs in their respective national development plans. Uruguay hopes to increase PPP investment in transport infrastructure through its national development plan. Mexico's 2013-18 development plan highlights private investment in railroads, ports and airports, as well as logistics corridors in order to position the country as a regional transport hub. Jamaica also improved its investment climate for PPPs, ranking among the top performers in this category. The two main political parties agree that developing and launching a pipeline of PPPs is a priority for the government.

- Deteriorating political will hurts the investment climate for PPPs in some countries

Scores for political will decreased in both Costa Rica and the Dominican Republic as governments did not take steps to increase PPP activity, including necessary regulatory and institutional reforms. Like its predecessor, the current government in Costa Rica has vocally supported PPPs, but substantive changes in support of the further development of

4. INVESTMENT CLIMATE

Rank		Score	▲
1	Chile	88.8	+1.3
2	Uruguay	80.8	+16.5
3	Peru	80.0	-0.5
4	Colombia	78.0	-0.8
5	Mexico	77.0	+16.4
6	Brazil	76.0	-2.5
7	Jamaica	74.0	+17.2
8	Panama	65.1	-0.2
9	Trinidad & Tobago	61.8	+1.7
10	El Salvador	59.3	-0.8
11	Guatemala	55.6	-1.2
12	Paraguay	54.3	+4.0
13	Honduras	52.6	-1.0
14	Costa Rica	45.7	-16.6
=15	Dominican Republic	41.9	-11.7
=15	Ecuador	41.9	+3.0
17	Nicaragua	37.2	-
18	Argentina	16.5	-4.5
19	Venezuela	9.3	-3.2

PPPs has been lacking. In fact, public opposition to PPPs appears to have strengthened, while some parts of the government have gone silent on the issue. However, some civil-society groups have engaged in public campaigns in support of PPPs as a solution to Costa Rica's infrastructure deficit. The investment climate for PPPs in the Dominican Republic has worsened since 2012, despite an improving business environment and reduced political distortion in the economy. Nonetheless, the government has shifted its focus to a more traditional public investment model for infrastructure, cancelling highway concessions and deciding to re-enter the electricity-generation business.

5. Financial facilities

● Local capital markets continue to develop

Chile leads the development of financial facilities for PPPs in the 2014 Infrascopes with deep and liquid capital markets, including freely traded local-currency bonds from public and private issuers, low sovereign risk and well-targeted subsidies for low-income populations. Capital markets for private infrastructure finance in Brazil, Mexico and Peru lag Chile's sophistication, although they have deepened in all three countries since 2012. Brazil increased its score on this indicator as firms can issue local- and foreign-denominated bonds and the government has promoted increased equity financing. A financial-sector reform in Mexico became law in 2014 and should increase competition and boost lending. Investor confidence in local markets in Peru has risen, and public debt denominated in a foreign currency has fallen from 94% of the total in 2000 to 53% in 2014. Institutional investors are an option in Colombia, but large infrastructure projects usually require supplementary foreign investment. El Salvador stands out among its Central American neighbours, as does Trinidad and Tobago in the Caribbean, for the development of their local capital markets.

● Government finances limit PPP viability in several countries

Five countries in the study face public finance outlooks that may hinder their ability to fulfil obligations to concessionaires. Argentina is frozen out of international capital markets and is using foreign-exchange reserves to repay external public debt. Venezuela's public finances are highly exposed to international oil prices, and the government has failed to adjust public expenditure in line with falling oil prices. Tax revenue has improved in Honduras, but the country lacks an IMF programme to bolster financing. Jamaica's total public debt remains large at 131% of GDP, limiting its options to reactivate economic growth while meeting strict fiscal targets. Large unfunded liabilities are a risk for the government of Nicaragua, although strong nominal GDP growth has prevented debt indicators from deteriorating.

5. FINANCIAL FACILITIES

Rank		Score	▲
1	Chile	91.7	-
=2	Brazil	72.2	+11.1
=2	Mexico	72.2	-
=2	Peru	72.2	-
5	Panama	63.9	-
6	Colombia	61.1	-
7	Trinidad & Tobago	55.6	-
8	El Salvador	47.2	-
=9	Costa Rica	41.7	-
=9	Uruguay	41.7	-
11	Guatemala	33.3	-
12	Paraguay	30.6	+5.6
=13	Dominican Republic	25.0	-
=13	Ecuador	25.0	+2.8
=15	Argentina	16.7	-
=15	Jamaica	16.7	-5.5
17	Honduras	11.1	-5.6
18	Nicaragua	8.3	-
19	Venezuela	5.6	-11.1

● Application of subsidies could improve

More than half of the countries included in this study could improve their use of subsidies for electricity, water and transport services—they are either non-existent or distortionary. In 2013 the IMF declared that fuel subsidies in Trinidad and Tobago had distorted the market and were unsustainable. These subsidies are not targeted at low-income users and benefit higher-income populations disproportionately, accounting for 8% of their income. Electricity subsidies in Guatemala are targeted based on usage levels, but benefit too broad a segment of the population, meaning that eligibility should be narrowed to prevent economic distortions. Ecuador has managed to reduce the amount spent on electricity subsidies slightly, but faces challenges to target the subsidy properly at low-income users as well. Water subsidies in the country are administered at the local level and targeted based on households' socioeconomic status.

6. Subnational adjustment

- **Subnational governments in Brazil and Mexico are the most active in PPPs, although local water PPPs have been developed in Peru and Colombia**

In most other countries in the region the legal framework allows for subnational concessions, but few have been undertaken. The regulatory frameworks in Guatemala and Honduras allow for subnational PPPs. Some local governments have expressed interest in PPPs in areas ranging from public lighting and small hydroelectric projects to solid-waste management. Honduras's national PPP agency has promoted a PPP for the municipal water system in the city of Tela, with an estimated value of US\$30m. In Venezuela and Panama concession schemes do not apply to regional and municipal governments, while Nicaragua's limited legal framework could be applied at these levels, but the resulting projects would probably be too small to generate investor interest.

- **Subnational activity in Brazil and Mexico rivals or surpasses federal activity**

Subnational PPPs in Brazil far outnumber federal-level PPPs: by one measure, there have been 66 signed PPP contracts at the state and city levels, compared with just one at the federal level. Experiences have varied across Brazil's states and municipalities, and three states account for one-third of total PPP activity in Brazil. Meanwhile, Mexico has experienced less subnational PPP activity than Brazil: according to one estimate, it has around 20 subnational PPPs, as against 29 PPPs and concessions at the federal level. Updates to Mexico's regulatory framework were expected to create a boom in subnational PPPs, but this increase has not yet materialised. Water concessions at the state and municipal levels must contend with a

6. SUBNATIONAL ADJUSTMENT

Rank		Score	▲
1	Brazil	100.0	+25.0
2	Mexico	75.0	-
=3	Chile	50.0	-
=3	Colombia	50.0	-
=3	Peru	50.0	-
=6	Argentina	25.0	-
=6	Costa Rica	25.0	+25.0
=6	Dominican Republic	25.0	-
=6	Ecuador	25.0	-
=6	El Salvador	25.0	-
=6	Guatemala	25.0	-
=6	Honduras	25.0	-
=6	Jamaica	25.0	-
=6	Paraguay	25.0	-
=6	Trinidad & Tobago	25.0	-
=6	Uruguay	25.0	-
=17	Nicaragua	0.0	-
=17	Panama	0.0	-
=17	Venezuela	0.0	-

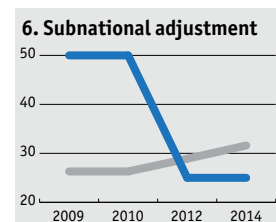
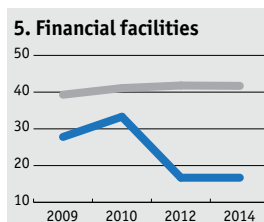
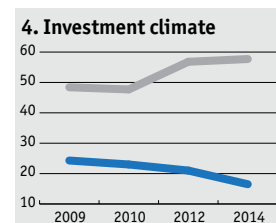
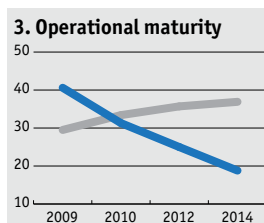
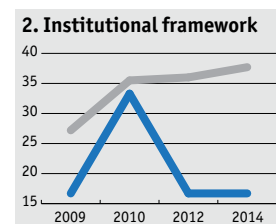
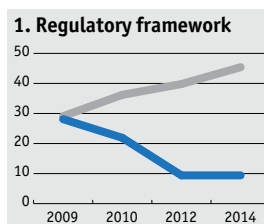
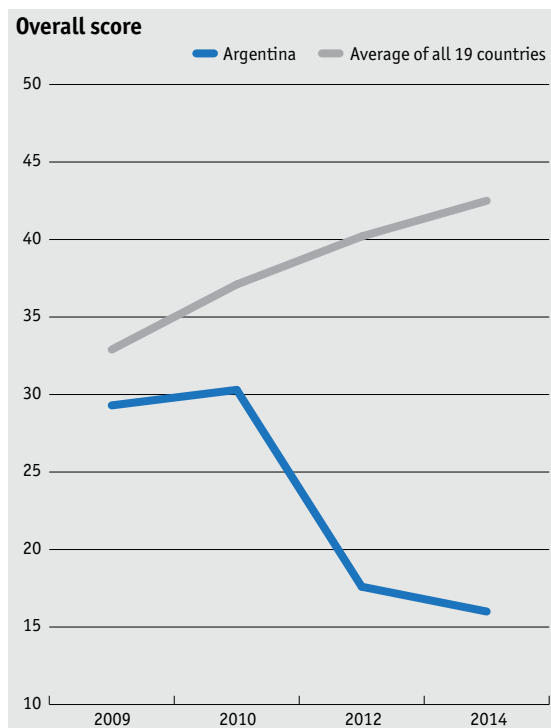
complex network of participants—one barrier to encouraging more private-sector participation in the sector. However, the integrated concession of the water operator in the city of Puebla is one development in this area. Subnational governments in both Mexico and Brazil face some similar challenges, such as administrative capacity, contract design, financing issues and political will.

Infrascopes country summaries

The following section provides a brief profile of the PPP environment for each of the 19 countries in this study and their performance in the index. Countries are listed in alphabetical order. Please note that the information selected for the country profiles is intended to provide a high-level overview; it is not intended to provide an outline of the legal environment or represent a comprehensive account of all recent activity. For the 19 full, individual country profiles and indicator scores, please refer to the underlying index and “country profile” tab, available at www.eiu.com/lacinfrascope2014.



Argentina



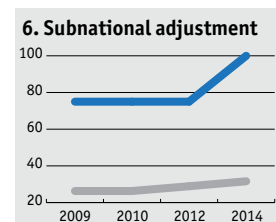
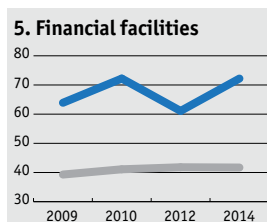
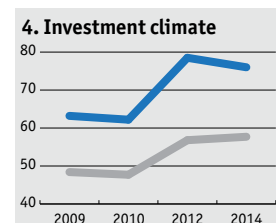
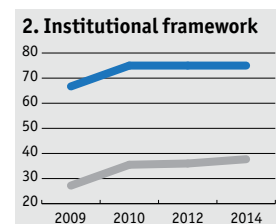
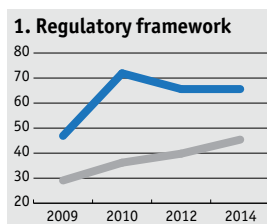
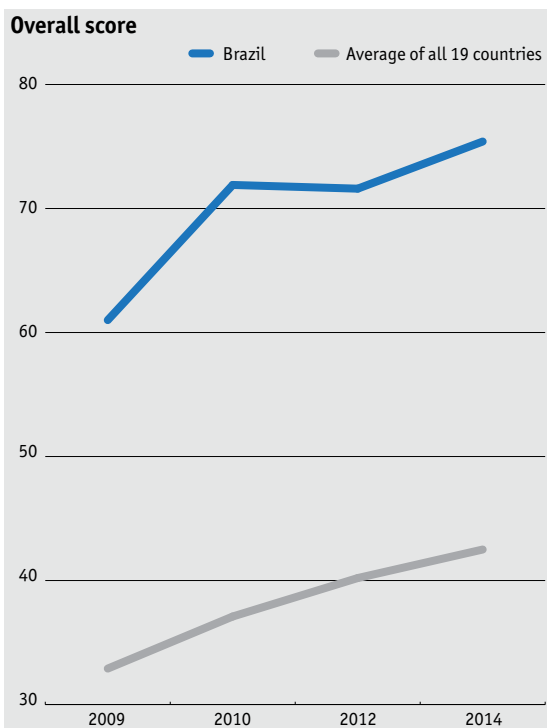
● Despite the fact that Argentina has the legal and institutional capacity to implement PPPs, persistent state intervention in the services sector and an atmosphere that still does not encourage private investment in some sectors continue to be major obstacles. A well-defined legal and institutional framework for PPPs has been in place since the late 1980s and early 1990s, but has not been used for PPPs for the past 14 years. The political and social will to implement PPPs is low largely due to a negative perception of privatisation and deregulation stemming from the 2001 crisis. Political involvement in infrastructure projects has prompted a deterioration of public capacity for PPP planning and regulatory oversight.

● The bidding process for PPPs is frequently uncompetitive and opaque, and courts have further confounded the process by issuing contradictory rulings in key areas. The government has resolved a series of disputes before the International Centre for Settlement of Investment Disputes

(ICSID) and has sought to settle pending legal issues with debt holders, but persistent currency-exchange, capital-flow and import restrictions have worked to dissuade private investment in infrastructure. Although PPPs should be an attractive financing option for a cash-strapped government with significant infrastructure improvement needs, the current administration only backs state-led ventures.

● Transport concessions face tariff controls that have led to reduced service levels despite the existence of subsidies designed to offset them. The Argentinian government has reduced subsidies for natural gas and water and is considering further reductions in subsidies for electricity tariffs, but this does not guarantee more openness to private-sector involvement in major projects. Argentina's economic troubles and a high dependence on public-sector financing for infrastructure investment signal a continuing difficult environment for PPPs.

Brazil



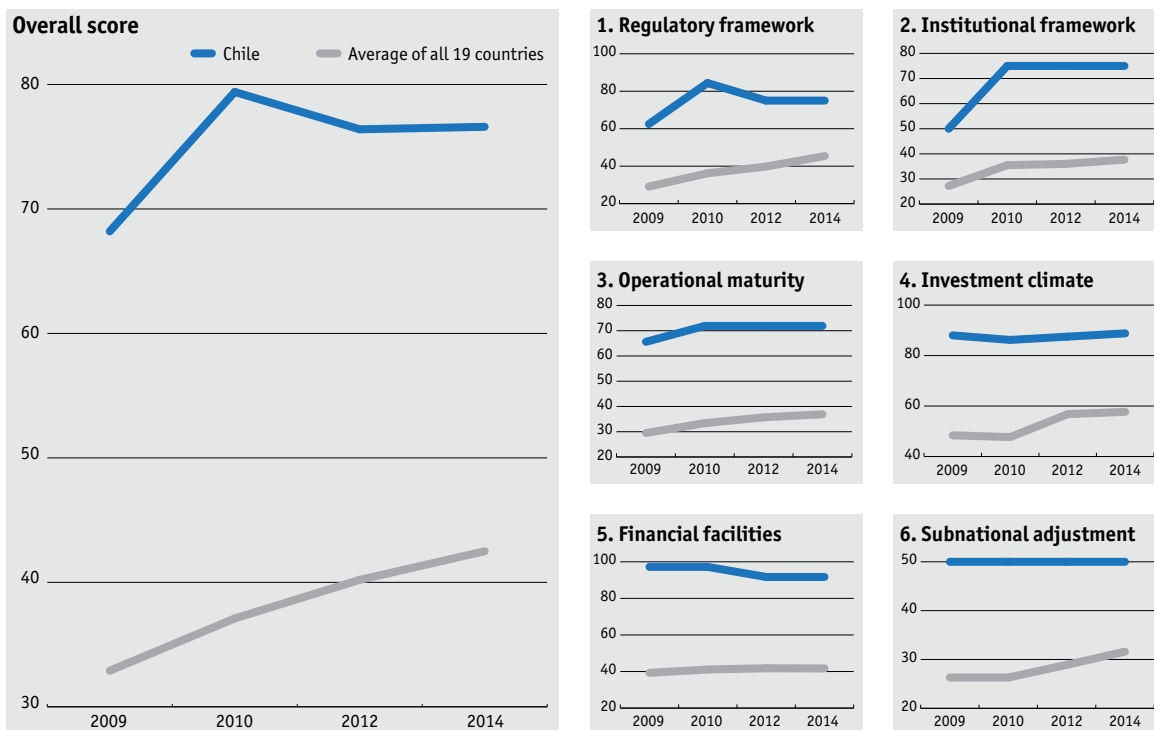
- Economic growth in Brazil over the last decade has been driven largely by credit, consumption and commodities. During this time, investment in infrastructure was low, totalling approximately R52bn (US\$18bn at current exchange rates) in projects in the private sector, according to Credit Suisse. With the global economic slowdown in 2009, Latin America's largest economy has recognised and prioritised infrastructure investment. As host of the World Cup in 2014 and the upcoming Olympics in 2016, Brazil hopes to overcome its infrastructure gaps in the face of a very tight timeline.

- In 2012 the government announced the Logistics Investment Programme (PIL) for ports, highways, railroads and urban mobility that will total approximately R240bn over the next few years. It was described as a fast-track programme to speed up implementation and introduced the risk that project quality could suffer as a result of reduced rigour of selection, planning and implementation. In practice, this has not happened. Instead, technical capacity has been the main bottleneck for PPPs, as the government has been working to build institutional

knowledge and to ensure that projects are properly structured and launched. Brazil has successfully executed road, urban mobility and airport projects, but there have also been delays and tenders with fewer bidders than anticipated. Regardless, the PIL provides transparency in the auction and selection process as all information for current and upcoming projects is online and much of it is available in English as well as in Portuguese. The government has been criticised for limiting internal rates of return; however, the private sector is still interested and willing to compete under these terms. Institutional capacity has improved, but external stakeholders find that it is still lacking.

- Given its mature PPP projects, Brazil has also faced some growing pains in the last year over expiring electricity concessions. Unsurprisingly, the public and private partners disagreed over the residual values of the contracts. When faced with new terms, some operators chose to walk away from renewing their concessions. Given the remaining time left on concessions, there should be enough time to find replacements.

Chile



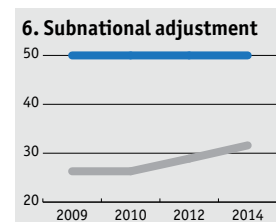
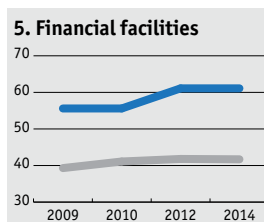
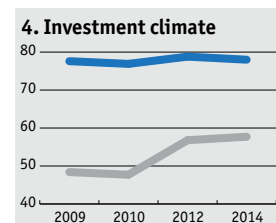
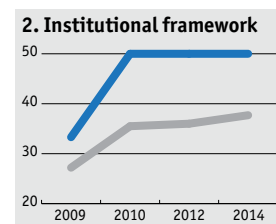
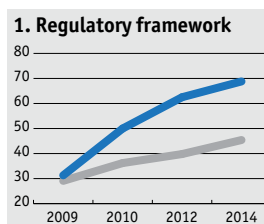
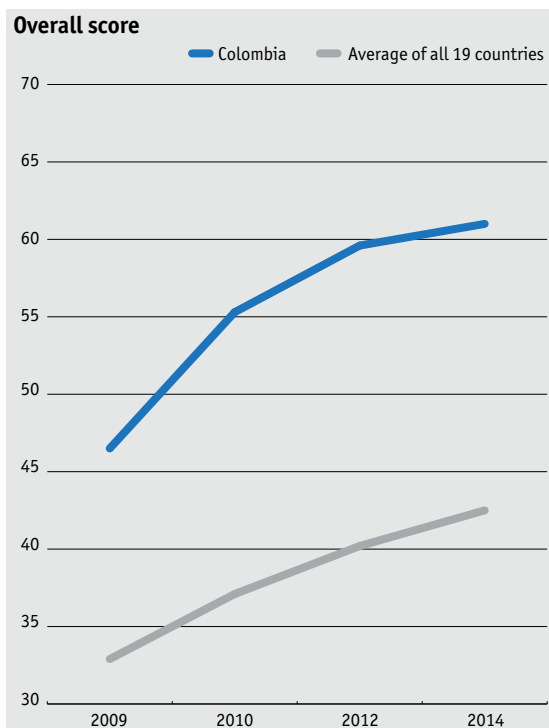
- In 2010 Chile established its current regulatory framework Law No. 20.410 (Ley de Concesiones de Obras Públicas). This law modified the 1996 Concession Act, which enabled private contracting of public works, to be regulated by the Ministry of Public Works. Chile has a long-standing and well-structured investment evaluation system that is applicable for all public projects, which currently includes PPP projects. The National Public Investment System supervises the social cost-benefit analysis requirement for every project. The system for financing and allocating unsolicited initiatives has been improved under the 2010 legislation, which specifies a well-structured pre-qualification system with co-financing of engineering projects.

- The electricity industry has its own legal framework for granting indefinite concessions, and today the vast majority of the electricity-generation industry is in private-sector hands. Plans for the expansion of transmission capacity in the sector have fallen short, reflecting in part problems of planning, co-ordination, incentives and political will. Thus, the cancellation of generation projects owing to seemingly political decisions is raising the perceived risk of undertaking complex generation projects. A recent example is the HidroAysén project, which was vetoed by the committee of the Ministry of the Environment in June 2014.

- In the water and sanitation sector, responsibility for water provision and disposal and treatment has been allocated to regional companies. Legislation regulating the water and sanitation sector was passed in 1997, allowing the government to privatise services or lease facilities to regional corporations. Since 2000 almost 99% of the services in urban areas have been transferred to the private sector. Recently, there has been heated debate about the use of non-consumptive water resources, and the government has appointed an expert to advise on future policy and regulatory definitions. This process has produced significant uncertainty among electricity producers.

- Tendering processes use transparent contracting methods and employ efficient economic criteria to award projects. For any additional important works, construction is retendered separately, and the Ministry of Finance independently evaluates changes in project contracts. The change in concession law has also led to the establishment of a council of external board members that recommends contract changes to the Ministry of Public Works. Transparency requirements, such as bidding for additional significant works and renegotiating concessions and the improvement in dispute-resolution mechanisms that were introduced by the 2010 law, have reduced the extent of renegotiations and improved the quality of competition during the initial project bidding phase.

Colombia



- In January 2012 Colombia approved a PPP law applicable to government entities at the national or subnational level. Law No. 1508 allows the implementation of PPP projects that are private initiatives and has brought on what has been called “the fourth-generation of concessions”, whereby the government transfers environmental licence and land acquisition responsibilities to the contractors. When projects are completed and put into operation, the government authorises contractors to charge tolls until they recover their investment.

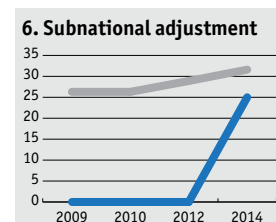
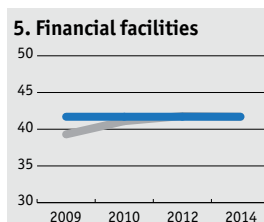
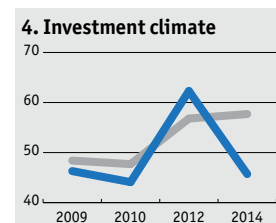
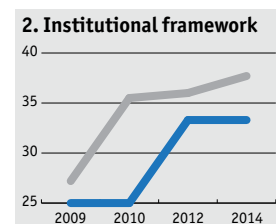
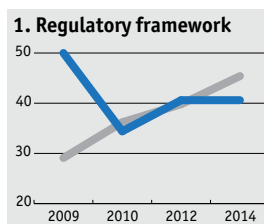
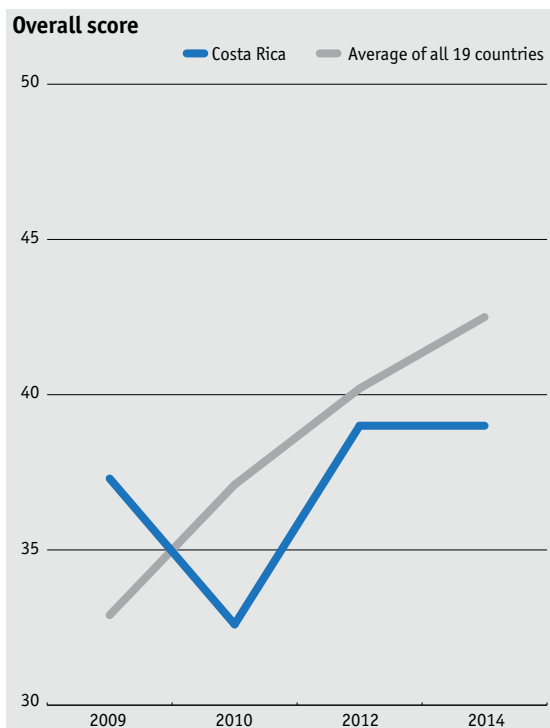
- In November 2012 the Transport Infrastructure Law No. 1682 was issued to deal with delays and cost overruns on transport infrastructure projects and to simplify land acquisition and disposition, including an “automatic consolidation” figure and implementing a deadline for early property delivery. Both laws improve the legal framework for PPP projects in the transport sector, where the most investment is required. The 2012 law significantly improves bidding mechanisms, levels the playing field for participating companies, and is likely to improve transparency and objectivity. It also requires better preparation of projects in general. The National Development Plan underpins planning and prioritisation of PPPs and is approved at the beginning of each new government. The law mandates a cost-benefit analysis for the selection of PPP projects, including public-private comparison indicators, but in practice the system has a poor record of renegotiating projects, and commercial risks are often passed to the state, irrespective of what has been explicitly laid

down in contract agreements. However, the limits and restrictions on these contract renegotiations established by the new laws should improve the poor record.

- The electricity industry has its own regulation for private participation, established in 1995 when Colombia restructured the industry. Importantly, the reform encourages the participation of private investors in electricity generation in Colombia. The state has maintained the ownership of transmission and controls most of the distribution network through the regional and local governments. Water and sanitary services are provided at a regional and municipal level. In the electricity-generation sector, independent power generation companies make their own investment decisions in accordance with price signals in the spot markets, in the contract market, and in the bidding for energy by the system operator.

- In general, there is a political consensus on the importance of concessions (PPP) in Colombia. There is a political consensus to maintain favourable frameworks and to be proactive on concession projects. It is expected that the fourth generation of concessions will involve billions of Colombian pesos, reducing the large deficit in the country’s infrastructure in roads, ports and airports. However, creating project preparation and oversight capabilities within the government remains the critical factor.

Costa Rica



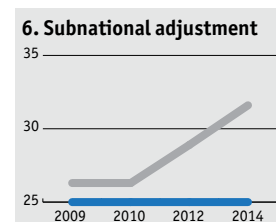
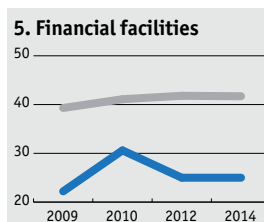
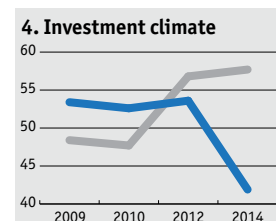
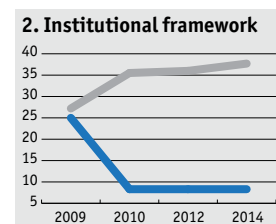
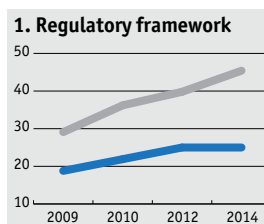
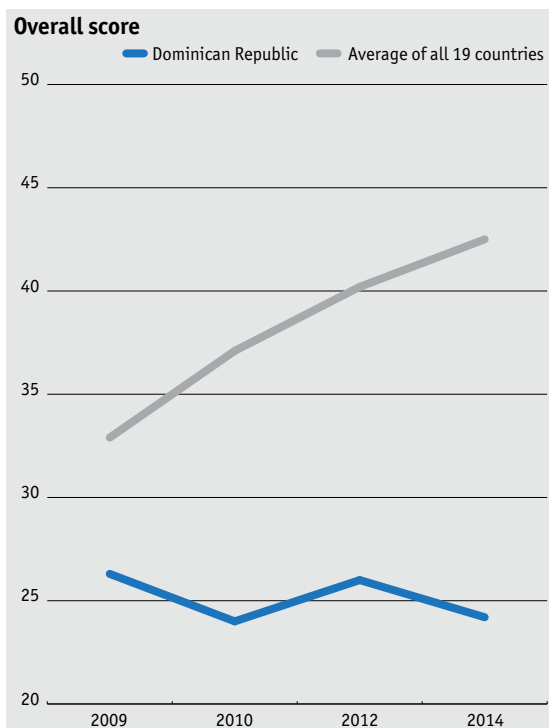
- Costa Rica's main concession law was modified in 2008 to streamline the concession process, but it expressly prohibits concessions in the electricity sector. Despite having a centralised concessions agency, experts cite the absence of management capacity and co-ordination failures as problems in PPPs, regardless of the infrastructure investment used. In general, the government has been slow to implement large projects because of excessive bureaucracy and long waiting times for legislative approval. This lack of government action to fix identified problems within the PPP system and take on large PPP projects has combined with public doubt regarding private investment in public infrastructure. Moreover, experts comment that the public sector does not know how to "sell" the concept to citizens, who are frequently put off by unsuccessful experiences from the past. Despite being successful elsewhere and having the potential to bridge Costa Rica's infrastructure deficit, conflicts surrounding existing PPPs have created doubts about the model and hurt users, concessionaires, the government and the PPP system as a whole.

- To date, the only concessions awarded have been in the transport sector, including high-profile toll roads, airports and sea ports. These projects have demonstrated substantial cost recovery from users,

significant demand and a scale that justifies the transaction costs of a PPP contract. Transport will continue to be the focus in coming years, largely because of previous project experience boosting the public's perception of PPP success in the sector. There have been calls for a comprehensive legal framework for PPPs, leading to the introduction of a bill in 2012, but it was never approved or ratified into law.

- The state-owned Instituto Costarricense de Electricidad (ICE) is the dominant player in Costa Rica's electricity industry, with 39% of the distribution, all of the transmission and 76% of the country's generation capacity. The private sector can only participate in renewable-energy projects that generate 50 mw of electricity or less and must sell the electricity to the state monopoly. In total, all private generation projects cannot exceed 30% of total generating capacity. However, the high cost of electricity has been a recurring topic of debate in Costa Rica, especially as it has affected the industrial sector. Under the current private electricity generation ceiling, only about 70 mw of private generation capacity remained as of late 2013. The president has stated that he would be supportive of more private generation if it resulted in lower energy costs.

Dominican Republic



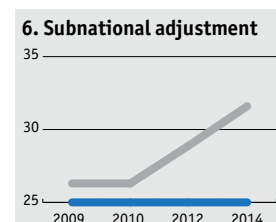
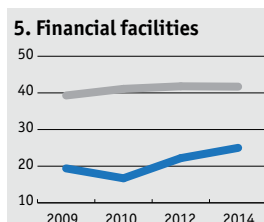
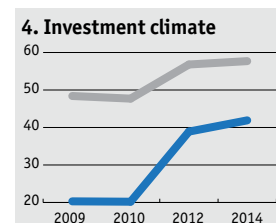
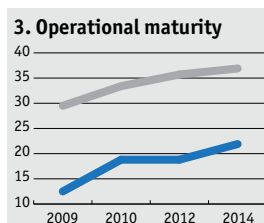
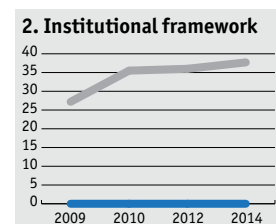
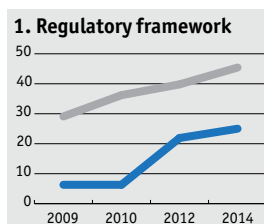
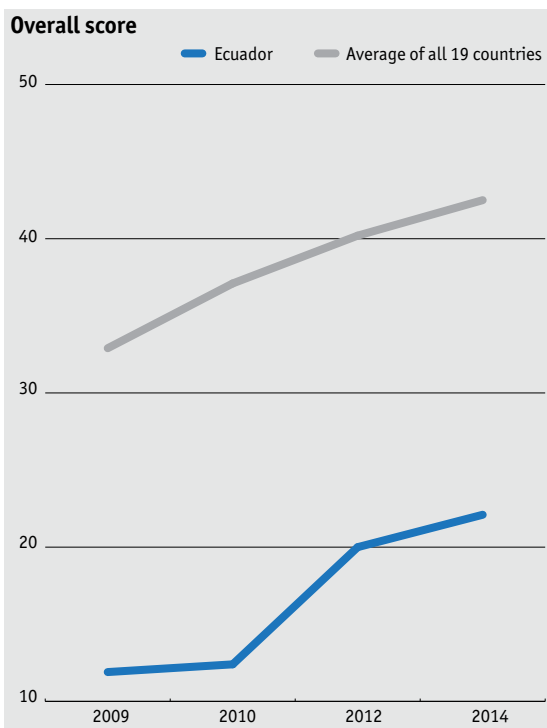
● Experts point to the absence of specific PPP legislation as the principal impediment to further development of PPPs in the Dominican Republic. While draft bills have been circulated among legislators since 2009, there are no signs that a PPP law will be passed in the near future. Under existing law, any public institution can plan a PPP, but delegating government functions (such as concessions) requires approval from both chambers of the legislature and an executive decree, making the approval of PPPs a lengthy process without a standardised framework. Decision-making processes and negotiations are controlled by different government departments, leaving no central unit to advise or oversee PPP contracting. Thus, it is difficult to generate the minimum management capacity and design skills that are necessary for an institutional PPP system to function properly and ensure efficient investment activities and procedures.

● Despite the absence of a framework PPP law, the Dominican Republic has been one of the most active jurisdictions in the Caribbean in terms of concessions. However, long-term planning for PPPs has suffered without the existence of a PPP agency. Most road projects have been managed by an office that reported directly to the president and lost political support when the presidential administration changed. The lack of planning and experience in the government has also led to fiscal problems, especially

in toll-road projects, where the government has paid tens of millions of dollars to concessionaires to honour minimum revenue guarantees. These experiences in the transport sector demonstrate that risk allocation has not been sufficient, and political and public scepticism regarding the PPP model has caused the policy focus to return to more traditional public infrastructure investment models over the past two years.

● The electricity sector is a contentious topic in Dominican society. Despite (or because of) ongoing energy crises related to non-payment and the high cost of petroleum inputs for a generation system that is overly reliant on them, the government has been unable to diversify the energy mix sufficiently in recent years. More than half (54%) of electricity-generation capacity is still reliant on petroleum-based fuels. The government is adding coal and natural-gas generation capacity with some private participation, but lacks the focus on private investment in renewable energies that many other countries in the region have demonstrated. In late 2013 the president called for more private investment in energy, but by early 2014 the legislature had approved changes allowing more government participation in electricity generation, and the minister of energy and mines was calling for a new, publicly led investment model.

Ecuador

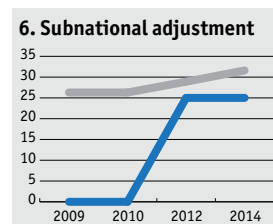
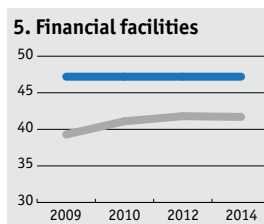
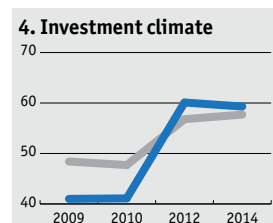
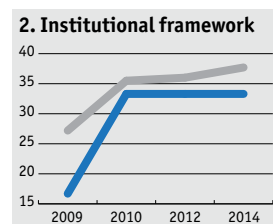
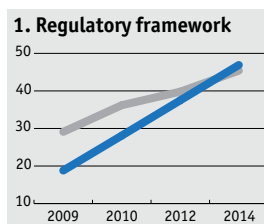
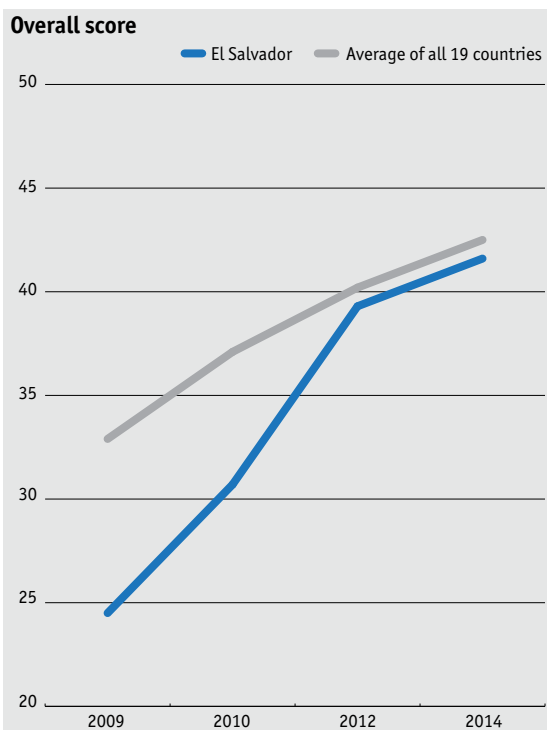


● Since 2007, laws and regulations have rolled back much of the PPP framework that had been in place since the State Modernisation Act of 1993. The 2008 constitution reserves control of strategic sectors, including energy, transport and water, for the state, and the government has led numerous investments in these sectors. Public investment in Ecuador increased from 2% of GDP (US\$856m) in 2006 to 8% of GDP (US\$5.2b) in 2011. In the transport and electricity sectors, the government can delegate (via concessions) to the private sector in exceptional circumstances, for example, when the state lacks the technical or financial resources to provide the goods or services or when existing public or mixed enterprises cannot meet immediate demand. One effect of Ecuador's lack of an overarching PPP framework is that little regulation exists for PPP tenders; in most cases, selection of concessionaires must occur through a public competition, but the remaining details are left to the sectoral ministry preparing the PPP.

● The two most prominent PPPs in Ecuador are in the transport sector: the new Quito Airport (Quiport) and the yet-to-be-awarded Port of Manta concessions. Neither exemplifies a smooth PPP experience. In July 2009 the Ecuadorian Constitutional Court found that the handling of airport fees as foreseen in the new Quito Airport concession contract was

unconstitutional. The municipal government of Quito and the concessionaire consortium eventually renegotiated the contract after 25 rounds of talks and signed a new deal in February 2011 that changed the economic terms of the concession. The airport opened in February 2013. Meanwhile, in February 2009 a subsidiary of Hutchison Port Holdings abandoned the Port of Manta concession amidst disagreements with the government about the investments that both parties were obligated to make. The failure of this concession demonstrated the lack of the use of value-for-money techniques in project selection. After several years of managing the port, the government chose to pursue another concession for the port operations, but the proposed terms led to a failed tender, which has now been restarted after modifications. In terms of political support, the government has identified the port as a priority for improving export competitiveness. In the electricity sector, more than 80% of the generation, 100% of the transmission and most of the distribution capacity is in the hands of the government. However, in 2011 the sector regulator, Consejo Nacional de Electricidad (CONELEC), established guidelines to allow for exceptional concessions in energy generation. CONELEC prioritises private participation in non-conventional energy generation, offering preferential prices for renewable-energy generators for up to 6% of national demand.

El Salvador

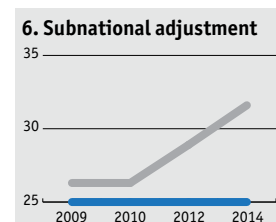
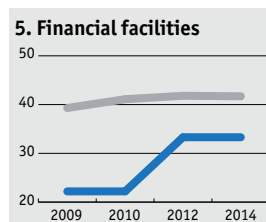
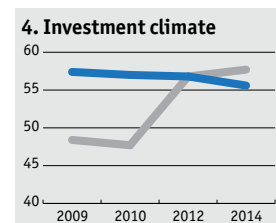
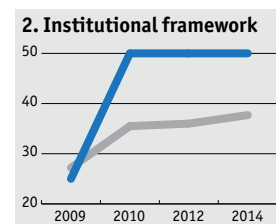
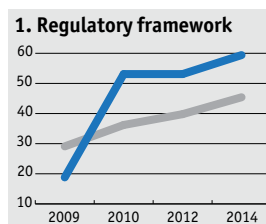
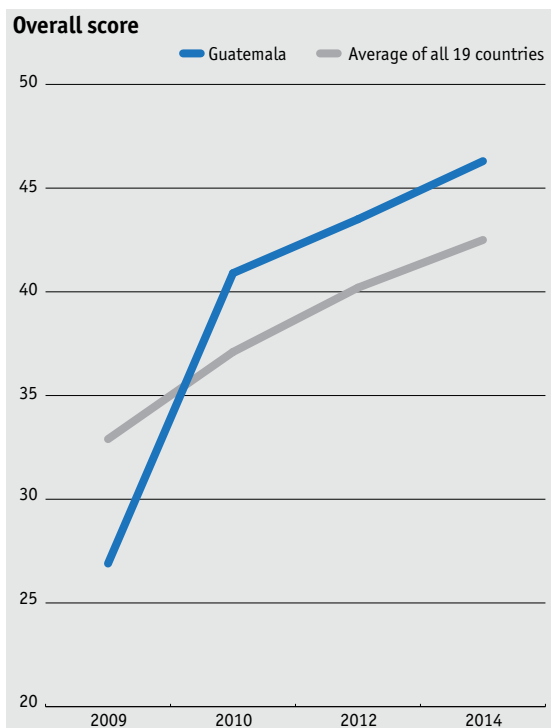


- Recognising the lack of public investment funds and the need for better infrastructure to catalyse the business environment, the ruling Frente Farabundo Martí para la Liberación Nacional (FMLN) stated that PPPs were its preferred model for developing large-scale projects. In June 2013 the legislative assembly passed the Ley Especial de Asocio Público-Privados (the Special Law on PPPs), which encourages joint ventures in areas traditionally considered to be a public-sector domain. The legislation defines the institutional framework, rights and obligations of the private participants, contract terms, settlement mechanisms, and the rights of workers. Under the law the national investment promotion agency, Agencia de Promoción de Exportaciones e Inversiones de El Salvador (PROESA), will develop and promote PPPs. The law also stipulates that potential PPPs must involve a minimum investment of US\$10m and must secure the approval of the legislature before proceeding. The latter requirement, coupled with the fact that the law does not establish time limits for legislative approval, could prove to be a stumbling block for potential investors.

- In recent years, the government's track record with private participation in large infrastructure projects has been marred by gridlock and a lack of transparency. Construction of a large hydroelectric project (El Chaparral) was halted by mutual agreement of the parties in 2012 after the discovery of geological instability on the site. In shipping, the core infrastructure for the port of La Unión was completed in 2008, but it is not yet operational. Initially, the hold-up centred on how to structure the operating concession; however, experts are now requiring additional dredging to allow for bigger ships. It is unclear when and how the terms of the project will be finalised.

- Overall, the environment for PPPs in El Salvador has been difficult, in part owing to a high turnover in government and scepticism in the business community as to whether projects will maintain political support and momentum in the long run. The Special Law on PPPs is a step in the right direction, but only time will tell whether the public sector is truly committed to working with private companies.

Guatemala

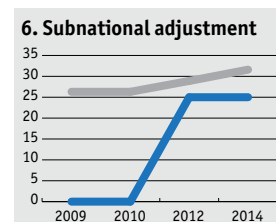
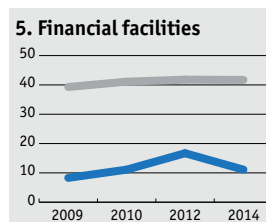
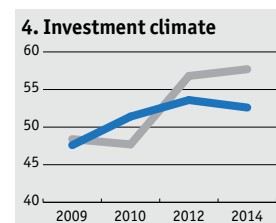
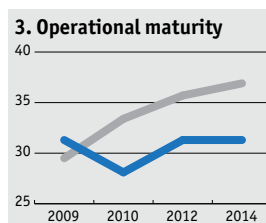
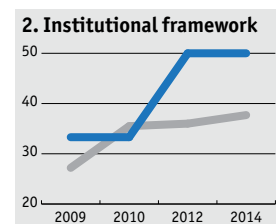
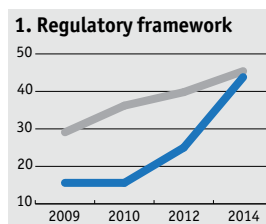
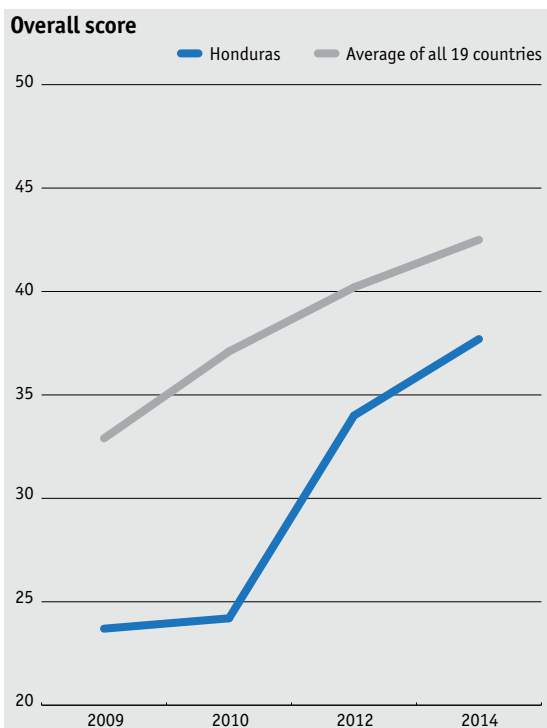


● Four years after the approval of the 2010 PPP bill and associated regulations in 2011, Guatemala set up a PPP council, Consejo Nacional de Alianzas para el Desarrollo de Infraestructura Económica (CONADIE) and a PPP agency, Agencia Nacional de Alianzas para el Desarrollo de Infraestructura Económica (ANADIE). While ANADIE actively responds to ministry requests for PPPs and supports them through planning and implementation, CONADIE is the final authority in considering a project's technical and financial feasibility. To the extent possible, this system builds on limited pre-existing project identification and selection capabilities at the sectoral ministries and involves ANADIE as a partner with the purpose of opening up new funding and contracting opportunities. Guatemala's political and business elite generally favours private participation in infrastructure projects, and several large transport PPPs will enter the award and subsequent construction phases in 2015. In addition, the political will exists for infrastructure investment in general. At the 2014 World Economic Forum the economy minister, who sits on the PPP council, presented potential PPP projects worth US\$600m for implementation in 2015. The PPP law prevents private participation in certain sectors; water, education, and health. ANADIE has expressed an interest in possibly amending the law to allow PPPs in these sectors. The PPP Law is comprehensive: it requires a risk-management strategy for each project, beginning with the initial project plan presented by the contracting institution, and which is included in the project terms during the tender process; the PPP contract must assign legal, technical, implementation, economic, financial, and force-majeure risks among the involved parties and include mechanisms for risk prevention, mitigation

and management; and the law requires the contracting institution and the public finance ministry to include any state payments to private partners on the government's balance sheet. PPPs being prepared under the 2010 law have been offered through international tenders, and participation by private firms has been promising, highlighting the government's project preparation abilities. ANADIE's first major project, a "dry port" on the border with Mexico, is supposed to be tendered and awarded in 2015, using a Design-Build-Operate-Transfer scheme with a 30-year concession.

● The Ministry of Energy and Mines awards electricity-generation concessions for up to 50 years for projects that use public goods (hydroelectric, geothermal). Numerous energy-generation projects with long-term power-purchase agreements imply expertise in this sector, but the sector is also an example of the challenges PPPs face in Guatemala. Of the 49 generating plants awarded as part of the sector's long-term planning process, 45 are in construction, but 18 of these are behind schedule owing to financial, right-of-way and social problems. The Association of Renewable Energy Generators (AGER) says 12 projects currently face social opposition. Some experts cite the government's poor track record in ensuring that projects have minimal environmental impact, others refer to the energy and mines ministry's lack of adequate communication. The cost of energy is another cause of discontent. The most extreme opposition wants to ban foreign investment in the electricity sector altogether.

Honduras



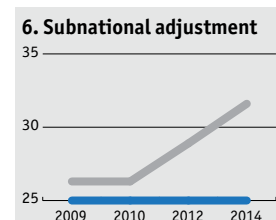
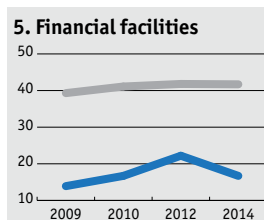
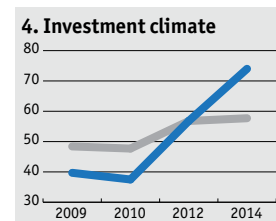
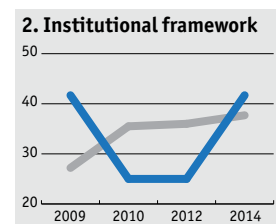
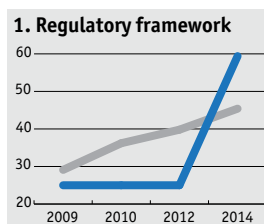
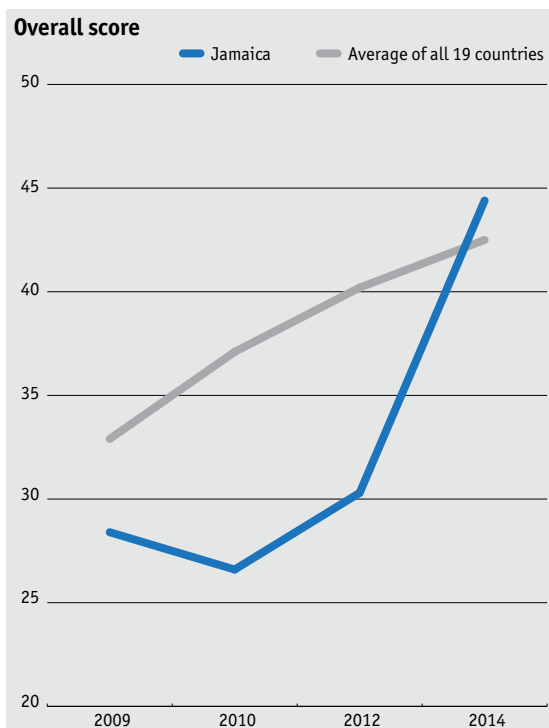
- Honduras's current and former administrations have moved quickly to implement PPPs under the framework of the PPP Promotion Law (Ley de Promoción de la Asociación Público Privada) of 2010, which allows PPPs ranging from 20 to 40 years in length and is intended to limit financial risks for the government. Honduras has seen a flurry of investment-promotion activity following the passage of the law, and the agency promoting PPP activity, Comisión para la Promoción de la Alianza Público-Privada (COALIANZA), reported that as of 2013 it had awarded six PPPs with a total value of US\$925m in foreign direct investment. Of these, 29% projects analysed were in the road transport sector, 12% in airports, 12% in ports and 6% in the energy sector.

- As PPP activity has grown, COALIANZA has faced some challenges. Commissioners have not served their legally mandated seven-year terms. In 2014 three new commissioners were chosen by Congress to fill the remaining terms of the previous commissioners, and COALIANZA has invited the Honduran Council of Private Enterprise (COHEP) to join a supervision committee giving monthly progress reviews on PPPs. The intention is for the supervision committee to serve as a regulator. Transport projects are facing public opposition to toll rates, which has resulted in implementation delays, with some schemes still under discussion. The government is liable to the concessionaire for the amount required to meet the minimum revenue guarantee stipulated in the PPP

contract. The IMF called on the government twice in 2014 to improve the framework for PPPs in order to limit risks associated with government debt guarantees contracted by private partners and contingent liabilities. COALIANZA is receiving technical assistance from the Millennium Challenge Corporation (MCC) and international consultants to improve both its capacity to handle PPPs and its ability to communicate the benefits of PPPs to the Honduran public.

- In the electricity sector, the state-owned electricity company, ENEE, has years of experience buying from private energy-generation facilities (which provide more than 60% of energy generated), but less experience in concessions for transmission and distribution. Nonetheless, COALIANZA is undertaking the concession process and shifting these services to the private sector. The agency considers it the most important PPP because the project will attempt to balance ENEE's annual deficit of almost US\$250m. The water and sanitation sector is also a focus of PPP promotion. The government plans to offer concessions for the state-owned water and sewer service, SANAA, and plans are also under way at the subnational level to offer concessions for the water and sanitation system in the municipality of Tela—a project worth US\$30m. These PPPs could provide benefits to enough people and enjoy popular support. However, if these planned PPPs were to give rise to conflicts, the sensitivities affected in these two very delicate sectors could set back PPP activity.

Jamaica

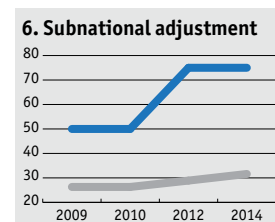
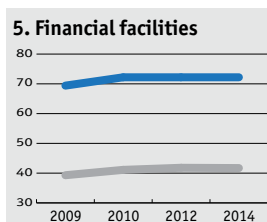
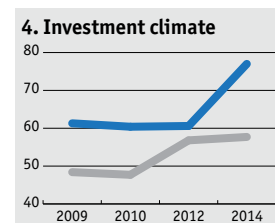
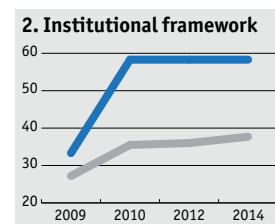
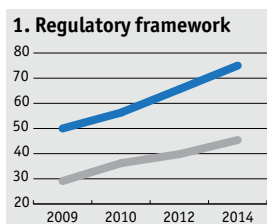
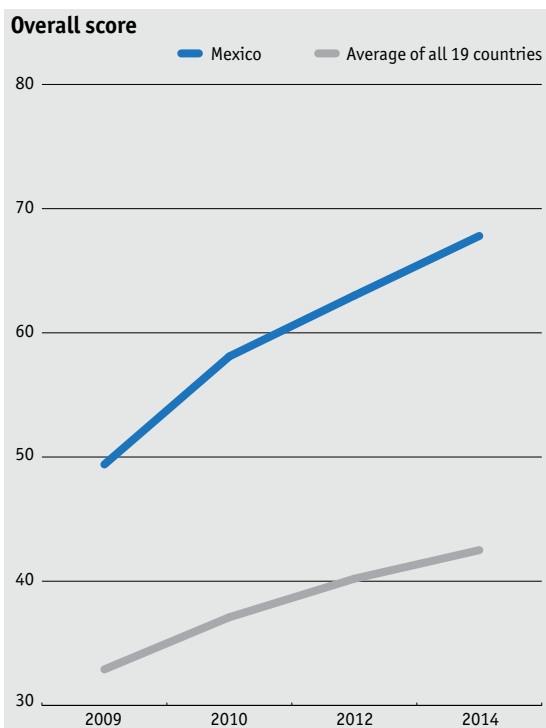


● Jamaica has been building institutional PPP capacity since 2012, when it passed the PPP modality framework. Today it is ready to launch three key projects, with several others in the pipeline. In September 2012 the Jamaican government approved a new institutional framework for PPPs—the PPP modality—which applies across all sectors, including water, road and other transport projects, such as ports and airports. The policy establishes a more comprehensive process to guide the identification, development, evaluation, implementation and management of PPPs. Under this framework, a PPP unit in the Development Bank of Jamaica (DBJ) manages the project launch process after financial requirements set by the Ministry of Finance (MOF) have been passed. Ministries, departments and agencies considering PPPs for infrastructure and public services work with the DBJ and the MOF. In providing the framework for PPPs, the government aims to standardise PPP implementation, attract private investment and limit fiscal exposure.

● A key principle of the PPP policy is optimal risk transfer, or the allocation of project risks to the party most able to manage, control and bear the potential impacts. In the process of implementing a PPP contract, optimal risk allocation is considered a value driver and is evaluated at key stages in the development of a project: initial screening, business case, and prior to contract signing. The law does not contain details about how to allocate risk, but mentions that construction risk should be borne by the private party, ie, the private party will receive no payments until construction is complete and would pay for construction overruns.

● Since the policy came into effect, the DBJ has worked with multilateral institutions, such as the MIF-IDB, IMF and the International Finance Corporation (IFC) to build capacity and awareness across all relevant levels of government. In February 2014 the DBJ said it was in the planning stages for three PPP projects—the Norman Manley International Airport, the Kingston Container Terminal and the establishment of a port community system—with several more in the pipeline.

Mexico



- The Law of Public-Private Partnership (PPP) was enacted in January 2012 and came into effect at the end of the year. The legislation regulates PPP projects undertaken at the federal level and is mandatory at the state level when the federal government provides financing for more than 50% of the project. It simplifies the regulatory framework for PPPs in the country significantly, defining and enabling a new type of long-term contract for private infrastructure development. Under this framework, any commercial risk borne by the state must be specifically and explicitly laid out in the bidding documents as well as in the contract for each project. The law facilitates contract adjustments when and if these are necessary for issues that adversely affect the project; reinforces creditors' rights; and ensures that projects are structured according to the principle of reasonable project-risk allocation. One of the most important changes in the legislation regards the mechanism for securing the right of way—one of the problems that used to raise risk in road projects. The PPP law enables the federal government to develop public-private partnership projects for transport, such as inter-state roads, airports, sea ports and railroads.

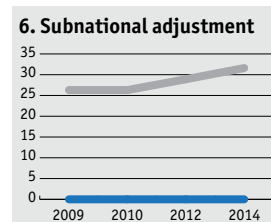
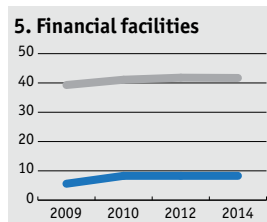
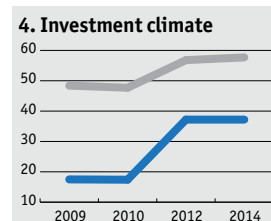
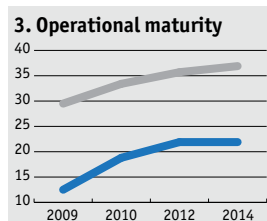
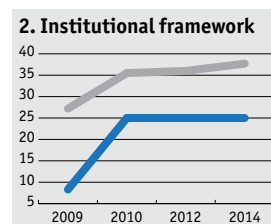
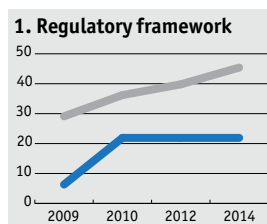
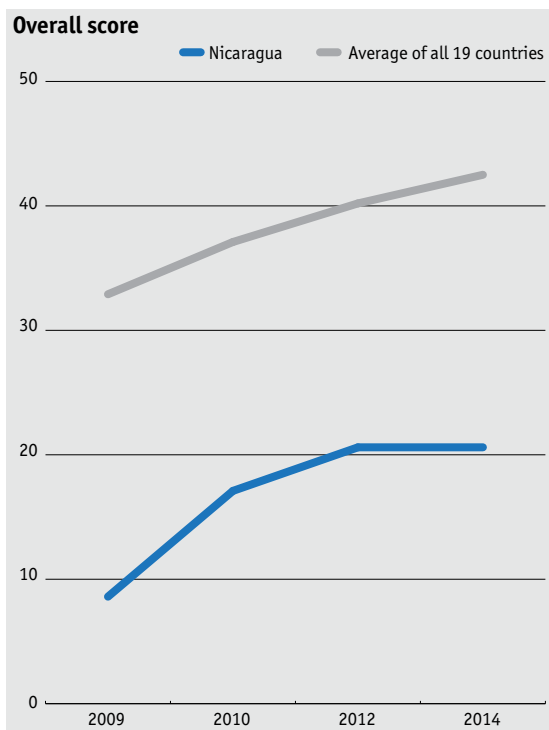
- The institutional system is highly fragmented. No specific body at the ministerial level establishes policies or oversees the entire system; instead, each sector and level of government is responsible for planning, implementing and supervising projects. Overall, the 2012 PPP legislation does little to consolidate the system, and more could be done to ensure

contract enforcement oversight. The unit in the Ministry of Finance that evaluates all federal PPP projects has created a coherent framework for assessing investment, but the granting agencies that manage contracts through the project life cycle are not subject to independent oversight on fundamental aspects, such as contract enforcement with respect to committed quality of services.

- In August 2013 the government of Enrique Peña Nieto enacted a historic change to the Mexican constitution by eliminating the electricity-generating monopoly held by the state-owned Comisión Federal de Electricidad (CFE). This has allowed a private market to develop under the oversight of the Federal Electricity Commission, which had previously been limited to power-purchasing agreements commissioned by the CFE. The change will require new regulations allowing independent power producers to sell energy to end clients with long-term contracts and participate in the wholesale electricity market. Regulations facilitating private participation in the electricity market were presented in April 2014.

- Water concessions are undertaken at the state and municipal levels, creating a complex network of participants. Navigating this network is a barrier to encouraging more private-sector participation in the water sector. The main development in this area is the integrated concession of the water operator of Puebla.

Nicaragua

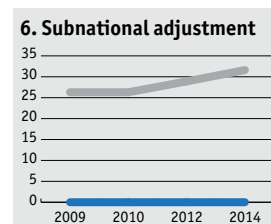
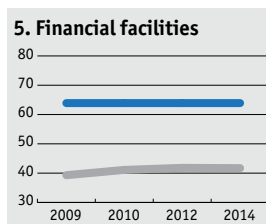
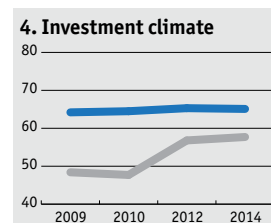
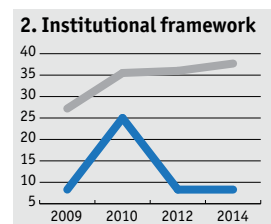
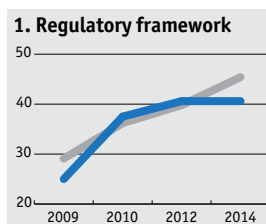
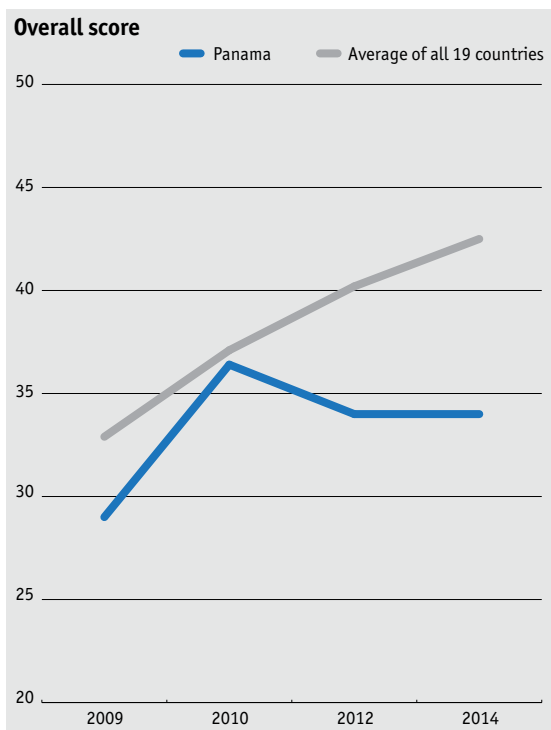


● Outside the electricity sector, developing concessions for private participation in infrastructure services has historically not been a government priority, and the institutional framework is underdeveloped. Nicaragua has no PPP management body, and the current administration has continually delayed passing and implementing a PPP law, despite widespread calls from the private sector for a comprehensive framework. Instead, the government has used executive authority and special laws to award large concession projects, such as the inter-oceanic canal and the Tumarín hydroelectric project. Nonetheless, recent constitutional reforms include an article codifying the government's responsibility to develop a PPP framework and promote these projects, and the legislature is reportedly considering a bill written by the private sector. Passing such legislation would open an important source of funding to correct Nicaragua's infrastructure deficit. A local think-tank, FUNIDES, has stated that the current highway system is holding back Nicaragua's development and that updating it to regional standards would require US\$5.5bn at current prices over the next 10-20 years. However, the country's history with transport projects is not reassuring. In 2012 projects such as the Monkey Point Port and the tourist Coastline Highway received media attention, but were delayed and then cancelled when the private partners backed out. A new ports law, passed in 2013, could help revive port concessions, which can be awarded for terms of up to 25 years and can be

renewed. Nonetheless, the law is no substitute for a comprehensive PPP framework: it specifies that port rentals and some port services should be tendered according to the Administrative Contracting Law, but makes no mention of tender processes for port concessions.

● This behaviour has not prioritised the strengthening of sectoral institutions, which remain strongest in the electricity sector, where the authorities use a selection model that allows the private sector to invest if the potential return is attractive. Following an energy crisis in 2006, the government pushed for better planning in the sector and more investment in renewable energy. In 2013 renewable sources accounted for 51% of generation, and the government plans to increase this figure to 74% by 2018 and 91% by 2027. The energy sector has been the most open to private participation, mostly via Build-Operate-Transfer (BOT) contracts for renewable-energy generation facilities. This openness exemplifies the greater political will in favour of private participation in the renewable-energy sector and demonstrates the effectiveness of the regulatory and fiscal adjustments made to facilitate private participation. A recent reform allowed for some private participation in transmission as well, and potential changes could allow firms to operate in generation and distribution simultaneously.

Panama



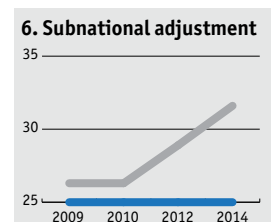
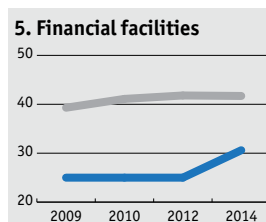
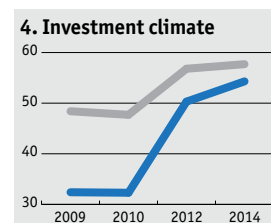
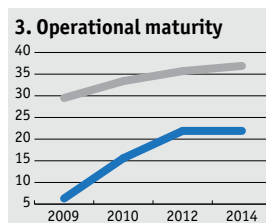
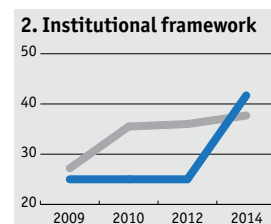
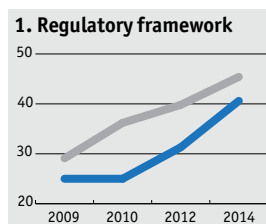
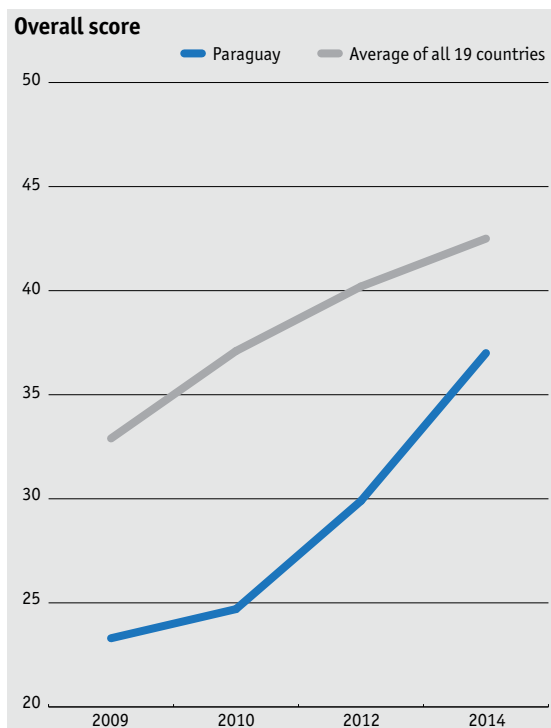
- The Ministry of Public Works Law No. 5 of 1988 regulates concession projects, including roads and airports. For contracts in cases where state-owned companies own the infrastructure, private contract laws are used, as the state-owned firms are the lessors. Law No. 22 of 2006 (Ley No. 22 de Contratación Pública) modified the regulation of long-term contracts, including concessions, and in 2011 the government developed a new PPP law (Law No. 349) that was sent to Congress, but was withdrawn in the face of opposition from public-sector workers, who felt their job security was threatened by potentially increased private-sector participation. In 2010 Law No. 76 modified the concessions law of 1988 and created the Empresa Nacional de Autopistas S.A. (ENA, National Road Company), a state-owned company that can undertake road concessions directly or invest in private-sector transport companies. The ENA is excluded from the public-sector budget and can issue debt and equity up to 49% of ownership. This type of scheme is not new in Panama, but the ENA's creation was a backward step in terms of establishing an institutional framework that encourages fiscal discipline and incentivises PPPs where value for money exists. The situation also has implications for the development of a level playing field in the area of road concessions, since the ENA could obtain debt off government balance sheets (although it has an implicit government guarantee since it is controlled by the government) and eventually initiates concessions by itself, crowding out private participation.

- In the water and sanitation sector, Law No. 2 of 1997 established a regulatory framework that permits private-sector capital, but political difficulties have prevented its implementation, and the current

administration has not made much progress. The services regulator in Panama (ERSP, a multi-sector regulator), regulates the services and activities of the largest water supplier, IDAAN, while the Autoridad Nacional del Ambiente (ANAM, the National Environment Authority) regulates the use of water in river basins. The electricity industry has a separate framework, reformed in the mid-1990s with Laws No. 6 (Comisión de Política Energética) and No. 26 (Entes Reguladores de Servicios Públicos). These reforms disaggregated the state's electricity monopoly and created a system structured to have vertical separation among generation, transmission and distribution; privatisation of distributors and private investment in generation (with generators selling to distributors through long-term contracts); and a regulator overseeing distribution and transmission charges. Reforms have been successful in establishing a multi-tariff system, separating the market based on the type of technology used and interconnecting electrical systems, which has drastically increased competition in the sector. Sea ports have yet another legal framework and are covered by contract laws approved by Congress, with an ad hoc judicial arrangement for each port. Panama has followed the landlord model of port regulation, with the state granting concessions to the private sector for BOT projects in specific terminals.

- In the last two years there have been no significant concession projects in Panama; rather, some projects have been criticised for being designed with a specific winner in mind, which also increases costs. In addition, many think the public sector took greater risks than the private sector with many of the projects in this period.

Paraguay



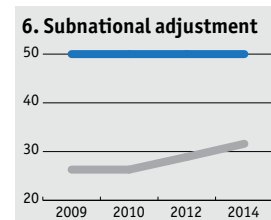
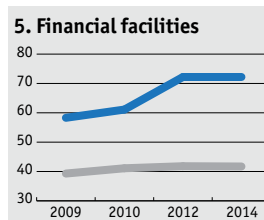
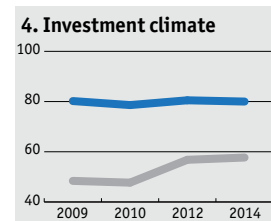
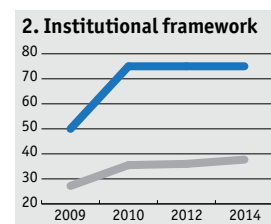
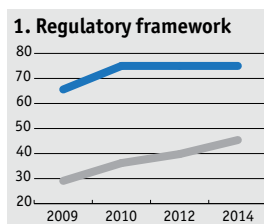
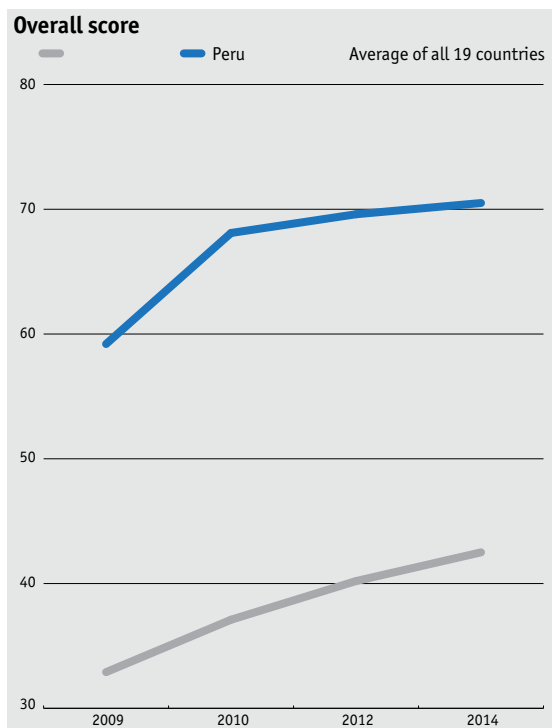
- The Government of Paraguay is exploring concessions to improve its infrastructure in several areas, including building and expanding road, rail, waterway and electricity networks, upgrading international airports, social infrastructure including health, education and prisons, and expanding telecommunications connectivity. In the last decade Paraguay has invested very little in public infrastructure: in 2011 total infrastructure investment was US\$407m, less than 2% of Paraguay's GDP and much lower than in other countries in the region, according to a report by the Development Bank of Latin America (Corporación Andina de Fomento, or CAF). The government expects the new PPP law to generate opportunities in infrastructure investment totalling US\$30b over the next ten years.

- In 2013 the government passed a new law for the promotion of investment in public infrastructure that broadly defines PPPs and outlines the roles and responsibilities of the various ministries, agencies and departments involved. A new PPP unit has been created under the

Secretaría Técnica de Planificación (STP) to develop, execute and co-ordinate PPP projects. The Ministry of Finance will monitor fiscal exposure to ensure that contingent and actual liabilities do not exceed 2% of GDP in net present value, or 0.4% of GDP in a given year. The law also creates a Fiduciary Guarantee and Liquidity Fund that can meet contractual obligations of PPPs.

- The new law establishes flexible risk allocation by allowing it to be negotiated on a case-by-case basis in each project. There are no guidelines for typical risks such as construction, demand and availability. Given the lack of institutional experience or track record, this could cause delays in negotiations. Another issue in risk allocation is that any part of a project that may be subject to expropriation risk needs to be defined in the bidding stage, along with appropriate compensation mechanisms. The private partner must then bear the risk, and this may be a disincentive for private bidders.

Peru



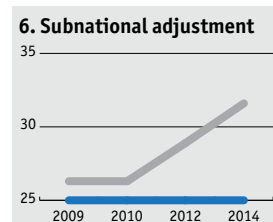
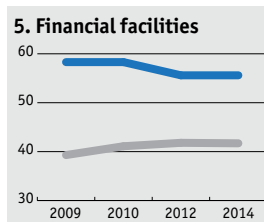
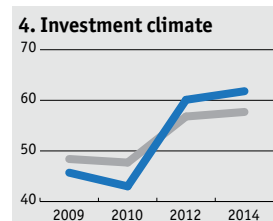
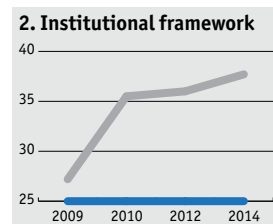
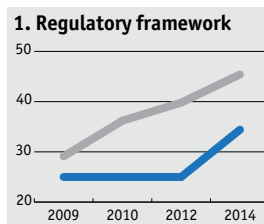
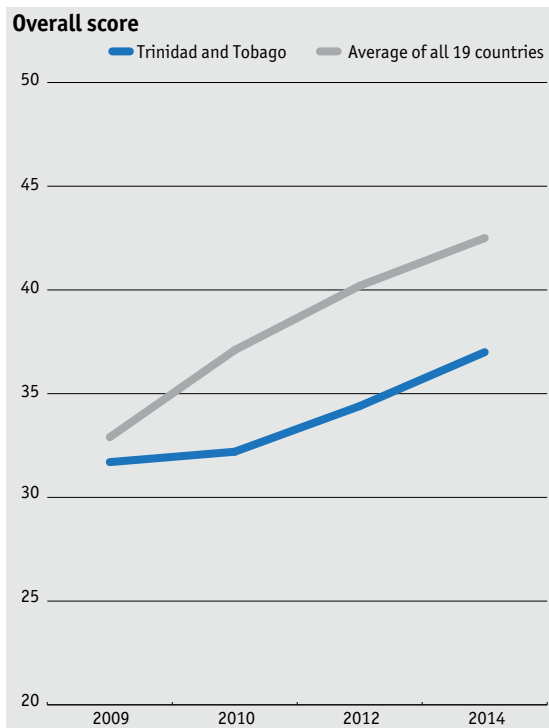
- A public works concession law has been in place since 1996, allowing public works to be contracted out for highways, water sanitation projects and airports. The Regional and Local Public Investment with Private Participation Law (Law No. 29230) of 2008 made it easier for the government to attract investment by relaxing some of the conditions for approving the disbursement of funds through the Sistema Nacional de Inversión Pública (SNIP, the National Public Investment System). The PPP regulation is very comprehensive and applies to any kind of productive and social infrastructure, including transport, energy, telecommunications, sanitation, infrastructure, social, prisons, housing and tourism projects. The regulation of PPPs and decentralised concessions applies to all three levels of government in Peru, in all sectors, and requires the same procedure. In addition to Law 29230, the previous administration passed legislation defining private investment in public projects: Legislative Decree 1012 of May 2008 regulates the private sector's participation in public infrastructure and services through PPPs, establishing risk-allocation principles according to each party's ability to mitigate these risks.

- In March 2014 Law No. 30167 modified Legislative Decree 1012. The main changes were as follows: i) The concept of PPP has been expanded, including the development of applied research projects and/or technological innovation. ii) A PPP may be developed on the basis of more than one public investment project (PIP). iii) To incorporate a project into the PIP process, the proposing state agency must submit an analysis of

the relevant aspects of the project, such as pre-investment studies etc. iv) The final design of the PPP contract by the respective Promoter Agency for Private Investment (OPIP) must have the favourable opinion of the competent public entity and the Ministry of Economics and Finance (MEF) as a prerequisite. v) Modifications to the final version of the PPP contract involving significant changes (economic parameters and guarantees) will require the approval of the MEF; since the publication of the Act, PPP processes cannot be made without budget availability attesting to the existence of resources in the competent public entity. vi) Private initiatives for PPPs concerning national-level projects can be presented directly to the Agencia de Promoción de la Inversión Privada (PROINVERSION, the national investment-promotion agency). vii) A national register of PPP contracts has been created, run by the MEF.

- In line with other Latin American countries, Peru reformed its electricity industry in 1992 with the enactment of Law 25844 and the creation of the Dirección General de Electricidad (DGE, the national industry regulator). Generation, transmission and distribution were disaggregated, and the law created the necessary incentives to attract private investment into power plants with significant investments. The bidding process is transparent and intended to promote competition by using economic reward criteria and reducing political discretion in the decision-making process. The government of Peru is committed to the promotion of PPP projects in several sectors of the economy and across different levels of government.

Trinidad and Tobago



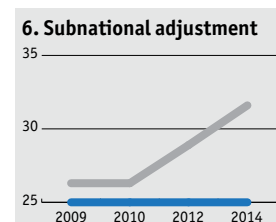
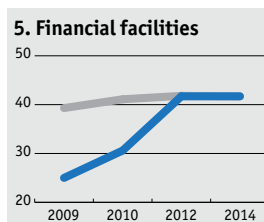
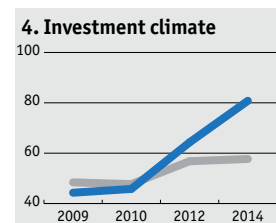
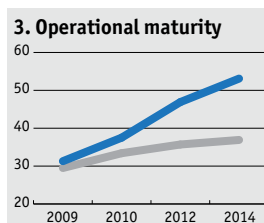
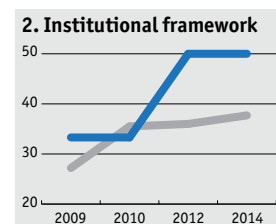
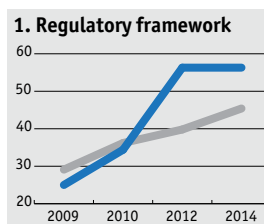
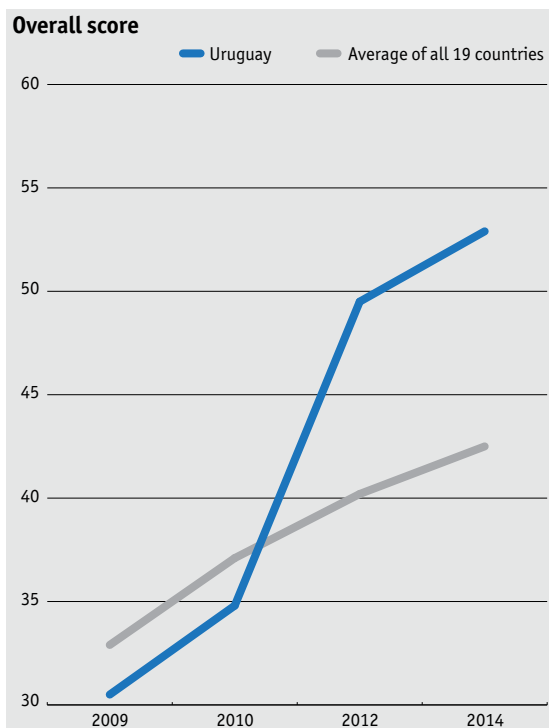
- In May 2012 the cabinet approved the national PPP policy, which provides an institutional framework for developing and implementing public-private partnerships. The PPP unit, within the Ministry of Finance and the Economy, is charged with developing and promoting PPP policy, screening potential projects to ensure that they meet government objectives and budgetary constraints, and working with the contracting agency to develop and implement projects. The other public entities involved in the PPP process are the PPP ministerial committee, which must approve all projects, and the contracting agencies, which manage and oversee projects over the duration of their contracts.

- Trinidad and Tobago has had little experience with PPPs and lacks the expertise to be able to run a project independently. The national PPP policy provides basic principles around key components such as transparency, risk allocation, value-for-money analysis and supervision, but the details are left to be determined on a case-by-case basis. Since

passing this policy, the government has been working to build capacity, develop a pipeline of potential projects, and test the process by launching two PPPs in health and education. One of the biggest obstacles has been the lack of institutional knowledge, so outside consultants from various multilateral agencies, such as the IDB and MIF, are working closely with government officials to teach them how to run a PPP.

- Political will at the government level is strong, and the cabinet has approved close to 20 projects, several of them in transport and utilities, which could be launched as PPPs in the next few years. The expectation is to build capacity, with the initial projects in health and education, and later launch larger public infrastructure projects. Although government officials recognise how important infrastructure investment is to GDP growth, there is a risk of losing momentum and political will if the process to launch projects takes too long.

Uruguay



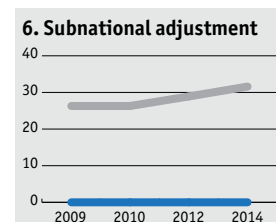
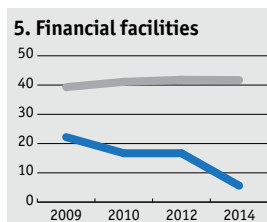
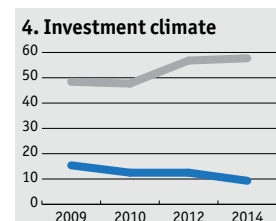
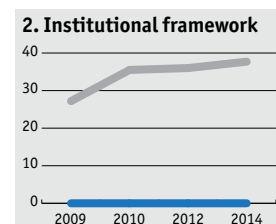
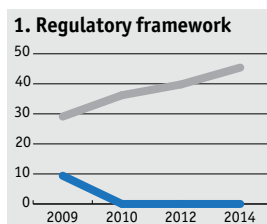
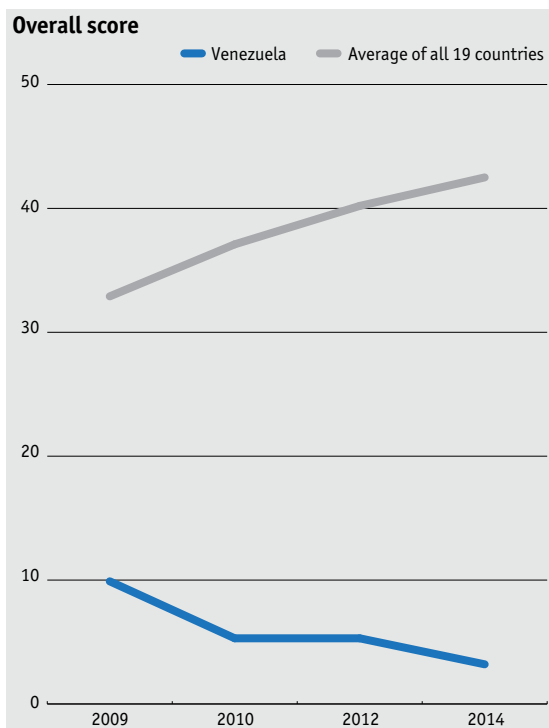
- In the past two years the government has passed decrees 017/012 and 280/012 with additional rules for the implementation of PPP projects that enhance the process of reviewing the technical evaluation of proposed ventures. These rules supplement the PPP law that came into effect in August 2011 and established a legal framework for PPPs in Uruguay. The PPP law applies to transport infrastructure and alternative energy projects but not to the water sector, and includes good practices such as value-for-money and cost-benefit analyses, risk allocation, assessment of fiscal risk, and establishing a process for identifying and planning projects.

- The Office of Planning and Budget evaluates the financial feasibility of PPPs, while a new PPP unit within the Ministry of Economy and Finance assesses fiscal risk and performs cost-benefit and value-for-money

analyses to determine a project's suitability. Uruguay's high-quality institutions and their focus on enhancing technical capacity could compensate for a lack of experience in implementing PPPs.

- Investment in renewable-energy generation is allowed, but the state-controlled electricity company, Usinas y Terminales Eléctricas (UTE), is the only buyer for such projects, and private generators are not allowed to participate in traditional generation methods. Although the political will to use PPPs in the transport sector does not yet apply to water and sanitation, four PPP projects are already in progress, including ports, cultural institutions, roads and the prison system. It appears a new balance of political forces following the 2014 presidential and legislative elections will support the continuation of the PPP programme.

Venezuela



- Venezuela's government continues to impede private-sector participation in infrastructure. In the water and transport sectors it has pulled back from incorporating private capital since 2007. Following a severe energy crisis in 2007, the subsequent nationalisation of the power sector and another electricity crisis from 2009 to 2013, the government has taken to rationing water and electricity in the capital, Caracas, and other cities since early 2014. The state-owned power corporation, Empresa Eléctrica Socialista (CORPOELEC), is responsible for the nationalised utilities, but its mismanagement and lack of investment in the electricity sector has resulted in regular blackouts. Several states experienced three different massive blackouts in 2013, and two other outages affected as many as nine states at once during the first half of 2014.

- Venezuela's laws allow for PPPs in the sector, but infrastructure activity has suffered, in part owing to a deterioration of the investment climate, uncertainty regarding the direction of government policies, and the perceived lack of a regulatory framework. However, the failure to include the private sector stems mostly from the state's ideological predisposition not to give the private sector too large a role in sectors it

considers strategic. Infrastructure investment is now squarely in state hands and centralised in the federal government. The process of approving investments is obscure, and financing is largely obtained via off-balance-sheet mechanisms or, indirectly, from the working capital of private companies that are awaiting payment from the government for services rendered. A shortage of foreign exchange has hurt the government's ability to pay, and this has increased its debts with contractors and suppliers in recent years.

- The pre-existing concession framework and conflict-resolution rules are not applied in practice. The overall investment climate suffers from contractual insecurity and the risk of nationalisations, although these have not resumed since Nicolás Maduro assumed the presidential office in April 2013. The increasingly arcane exchange-rate system impedes companies from repatriating dividends or from importing necessary raw materials, which only makes investment less viable. The participation of entities other than the Venezuelan government in infrastructure investment typically involves direct negotiations and bilateral agreements with friendly governments.

Appendix I

Infrascopes Background

In 2009 the Economist Intelligence Unit created a benchmarking index for 19 countries in Latin America and the Caribbean (LAC) that evaluated their capacity to implement sustainable and efficient concession projects in key infrastructure sectors, principally transport and water. The index, which was intended to serve as a learning tool for public-private partnerships (PPPs), was commissioned by the Multilateral Investment Fund (MIF), which is part of the Inter-American Development Bank (IDB). The index was constructed using a blend of secondary sources, World Bank and Economist Intelligence Unit data, primary regulatory and legal texts, and interviews with experts and government officials. It was designed specifically as a guide for policymakers and development institutions seeking to improve country-specific conditions for these vital and complex projects.

Specifically, the index was designed to evaluate readiness and capacity by dividing the PPP project life cycle into six components: 1) a country's legal and regulatory framework for private participation in infrastructure; 2) the design and responsibilities of institutions that prepare, award and oversee projects; 3) a government's ability to uphold laws and regulations for concessions, as well as the number of past projects and their success rate ("operational maturity"); 4) the business, political and social environment for investment; 5) the financial facilities for funding infrastructure; and 6) the quality of subnational frameworks and experiences in PPPs.

The index had a methodological update in 2010. As part of this process, an expert panel of more than a dozen stakeholders convened at the IDB's headquarters in Washington, DC to debate changes to the methodology. After this review, the Infrascopes was expanded to include the electricity

sector—the previous index covered only water and transport—and to increase the weight of the investment climate and financial facilities categories. Two new indicators were also added to the index: a "Subnational adjustment factor" and a "Political will" indicator.

The definitions, themes and sector focus for the Infrascopes were developed in collaboration with a group of regional and sector experts. This group comprised country specialists and stakeholders (policymakers, lawyers, consultants and development bank staff), as well as regional and international PPP experts. The group validated the category weightings, and The Economist Intelligence Unit worked with independent regional and country experts to make region-specific adjustments to indicators.

The World Bank, European Bank for Reconstruction and Development (EBRD) and Asian Development Bank have undertaken regional Infrascopes for Africa, Eastern Europe and Asia respectively, based on the methodology developed by the EIU and MIF for Latin America.

Differentiating between private participation and private partnerships

This study distinguishes between PPPs and the many other forms of private participation. For the purposes of the Infrascopes, the term "PPP" refers specifically to projects that involve a long-term contract between a public-sector body and a private-sector entity for the design, construction (or upgrading), operation and maintenance of public infrastructure. Finance is usually provided by, and significant construction, operation and maintenance risks are transferred to, the private-sector entity, which also bears either availability or demand risk. However, the public-sector body remains responsible for policy oversight and

regulation, and the infrastructure generally reverts to public-sector control at the end of the contract term.

Owing to the specific definition of PPP used in this study, indicators related to institutional design, experience and capacity largely exclude a country's experience with divestitures and management and lease contracts. Countries with management and lease or privatisation experience will fare slightly better than those without, but extensive experience in either of these two areas is not taken as automatically transferrable to the implementation of PPPs. In keeping with this, project figures taken from the World Bank's Public-Private Infrastructure Advisory Facility (PPIAF) database only include concessions and greenfield projects. A narrow focus is applied, because these more complex PPPs typically fall under different legislation than divestitures, and a separate taskforce and more complex interaction between public and private partners are required. For example, whereas privatisations enable the public sector to receive money in exchange for selling assets and are relatively simple to implement, in PPPs the government and/or users pay money for the asset or service. This imposes stronger financial constraints on the public sector, rendering financing more complex, and also risky. These elements are further enhanced by the fact that PPP contracts must follow a lifecycle approach to overseeing quality and service standards over a long period of time, after which the asset returns to the public sector.

Breaking down the components of the PPP value chain

The categories that make up the overall index pinpoint crucial aspects of the PPP value chain, starting at the conception of the project and spanning contract design, enforcement, supervision, termination and financing. Specifically, the index evaluates readiness and capacity by dividing the PPP project lifecycle into five components: 1) a country's *legal and regulatory framework* for concession projects; 2) the design and responsibilities of institutions that prepare,

award and oversee projects (*institutional framework*); 3) the government's ability to uphold laws and regulations for concessions, as well as the number and success rate of past projects (*operational maturity*); 4) the business, political and social environment for investment (*investment climate*); and 5) the *financial facilities* for funding infrastructure.

In addition, to recognise the significance of activity occurring at the regional level, a stand-alone sixth category and indicator for subnational PPPs was added in 2010 (*subnational adjustment factor*).

How do we define PPPs?

In the electricity-generation sector, we consider as PPPs either Build-Operate-Transfer (BOT) or Build-Own-Operate (BOO) schemes with long-term contracts or power-purchase agreements (PPAs) with public or private distribution companies or integrated state electricity companies. Even though the power plant does not revert to the state and remains private property, we consider both BOO and these long-term contracts to be PPPs, as they differ from the integrated public utility with rate-of-return regulation.

In the water sector, our analysis includes private-sector investments via BOT and BOO schemes with incentive price regulation schemes as PPPs. Examples include water treatment and fresh water provision or fully integrated water utilities, either under a long-term contract or periodic rate-setting as long as the rate-setting promotes efficient provision.

Unbundling projects: when is it still a PPP?

Unbundling PPP projects has become increasingly important to generate value for money. Bundling investment, financing, construction, operation and maintenance has the potential to reduce a project's value for money by affecting competition. Such complex projects frequently require firms to form consortia to complete them, a process that can lead to significant transaction costs. In addition, private financing can be more expensive than

public financing. Our minimum standard for PPPs requires the private sector to take responsibility for operation and maintenance, and to face significant demand risk. At the other end of the spectrum, we exclude fully privatised and integrated utilities with rate-of-return regulations. With these limits in mind, we consider the following cases to be PPPs: when the government undertakes a project with minor initial investment and financial requirements but transfers operation, maintenance and demand risk to the private sector; when the government builds and finances a project and later transfers operation, maintenance and significant commercial risk to the private sector; and when the government provides debt financing, while the private sector contributes equity and constructs, operates and maintains the project, assuming significant demand risk. However, we exclude lease

contracts from our definition of PPPs, because they are essentially financing operations in which commercial and operational risks remain with the state.

Definition of the water, transport and energy sectors in the study

Water/sanitation refers to drinking water and sanitation projects. Transport refers to sea ports, airports, roads and highways and rail. Energy refers to energy generation, specifically electricity generation. Energy extraction is not covered. The key element here is to evaluate the environment for competitive, private electricity-generation investment via concessions, which could be indefinite or fixed-term. Competition could be face-to-face or for the right to service the market.

Appendix II

Methodology, sources and detailed indicator definitions

i. Methodology

The methodology for this benchmarking study was created by The Economist Intelligence Unit's research team in consultation with the Multilateral Investment Fund, regional sector experts at the Inter-American Development Bank and the World Bank, and a wider group of sector stakeholders. The original indicator list and research focus was conceptualised at a workshop attended by international and regional sector experts and practitioners in late December 2008. The final index design was also influenced by previous frameworks developed by The Economist Intelligence Unit, the World Economic Forum and the United Nations Development Programme. This indicator list was again revised in early 2010 after extensive peer review, with an eye to maintaining consistency across years as much as possible, while increasing index rigour, relevance and global applicability.

ii. Sources

The Economist Intelligence Unit research team gathered data for the index from the following sources:

- Interviews and/or questionnaires from sector experts, consultants and government officials
- Legal and regulatory texts
- Economist Intelligence Unit country risk ratings and country reports
- Scholarly studies
- Websites of government authorities
- Local and international news media reports
- Inter-American Development Bank country strategies
- The World Bank's Private Participation in Infrastructure database
- Transparency International
- The Economic Commission for Latin America and the Caribbean (ECLAC)

About 40 in-depth telephone interviews were conducted with policymakers and legal and country

infrastructure experts from multilateral consulting institutions and the private sector.

For the general and specific-country bibliography, please visit: www.eiu.com/lacinfrascope2014

iii. Calculating the index

a) Scoring

All qualitative indicators have been scored on an integer scale. This scale ranges from 0-4 or 0-3 scores depending on the definitions and scoring scheme formulated for each indicator. Scores are assigned by the research managers and The Economist Intelligence Unit's team of country analysts according to the scoring criteria. The integer scores are then transformed to a 0-100 score to make them comparable with the quantitative indicators in the index.

b) Normalisation

Indicator scores are normalised and then aggregated across categories to enable a comparison of broader concepts across countries. Normalisation rebases the raw indicator data to a common unit so that it can be aggregated. The three indicators of quantitative data where a higher value indicates greater experience with concessions, a better business climate or a better political environment have been normalised on the basis of:

$$x = (x - \text{Min}(x)) / (\text{Max}(x) - \text{Min}(x))$$

where $\text{Min}(x)$ and $\text{Max}(x)$ are, respectively, the lowest and highest values in the 19 countries for any given indicator. The normalised value is then transformed from a 0-1 value to a 0-100 score to make it directly comparable with other indicators.

This in effect means that the country with the highest raw data value will score 100, while the lowest will score 0.

c) Weighting the index

At the conclusion of the indicator scoring and normalisation, The Economist Intelligence Unit selected a series of default weightings deemed appropriate for the overall index calculation (see table below). These weightings are not meant to represent a final judgment on relative indicator importance. These may be changed by users at will.

Modelling and weighting the indicators and categories in the index results in scores of 0-100 for each country, where 100 represents the highest quality and performance, and 0 the lowest. The 19 countries assessed can then be ranked according to these scores.

Table 1: Weights

MAIN CATEGORIES	Weight %
1) REGULATORY FRAMEWORK	25.0
2) INSTITUTIONAL FRAMEWORK	20.0
3) OPERATIONAL MATURITY	15.0
4) INVESTMENT CLIMATE	15.0
5) FINANCIAL FACILITIES	15.0
6) SUBNATIONAL ADJUSTMENT	10.0
INDICATORS	Weight %
1) REGULATORY FRAMEWORK	
1.1) Consistency and quality of PPP regulations	37.50
1.2) Effective PPP selection and decision-making	25.00
1.3) Fairness/openness of bids, contract changes	12.50
1.4) Dispute-resolution mechanisms	25.00
2) INSTITUTIONAL FRAMEWORK	
2.1) Quality of institutional design	66.67
2.2) PPP contract, hold-up and expropriation risk	33.33
3) OPERATIONAL MATURITY	
3.1) Public capacity to plan and oversee PPPs	25.00
3.2) Methods and criteria for awarding projects	12.50
3.3) Regulators' risk-allocation record	12.50
3.4) Experience in PPP projects (concessions)	25.00
3.5) Quality of PPP projects (concessions)	25.00
4) INVESTMENT CLIMATE	
4.1) Political distortion	25.00
4.2) Business environment	25.00
4.3) Political will	50.00
5) FINANCIAL FACILITIES	
5.1) Government payment risk	22.22
5.2) Capital market: private infrastructure finance	44.44
5.3) Marketable debt	22.22
5.4) Government support and affordability for low-income users	11.11
6) SUBNATIONAL ADJUSTMENT	
6.1) Subnational adjustment factor	100.00

iv. Detailed indicator definitions

1. Legal and regulatory framework

(1.1) Consistency and quality of PPP regulations:

"How consistent are PPP laws and regulations for national-level PPP projects? Do regulations establish clear requirements and oversight mechanisms for project implementation (project preparation, bidding, contract awards, construction and operation)? Must risk be allocated to different parties according to ability to manage them? Is there a clear system for compensating the private sector for acts of authority that change sector-specific economic conditions not foreseen during bidding?" Also considers whether regulations avoid open-ended compensation rights for changes in financial equilibrium, so that the state only assumes explicitly written commercial contractual contingent liabilities.

Scoring:

0=The legal framework is so cumbersome or restrictive that in practice national-level concessions are extremely difficult to implement;

1=The legal framework allows national-level concessions, but it is ill-defined and risk allocation and compensation are unclear and inefficient;

2=The legal framework allows national-level concessions and also establishes general, open-ended oversight, risk allocation and compensation rules;

3=The legal framework is generally good and coherent, addressing risk-allocation issues while leaving some ambiguity with regard to compensation schemes and project implementation;

4=The legal framework is comprehensive and consistent across sectors and layers of government, addresses risk-allocation and compensation issues according to strict economic principles and establishes sophisticated and consistent oversight of project implementation.

(1.2) Effective PPP selection and decision-making:

"Do regulations establish efficient planning frameworks and proper accounting of contingent liabilities? Have regulators determined appropriate project planning and cost-benefit analysis techniques to ensure that a PPP is the optimal project-financing and service-provision option? Does the Budget Office systematically measure contingent contractual

liabilities and account for delayed investment payments in a way consistent with public investment accounting?"

Scoring:

0=Decision-making processes are not defined—they are erratic and subject to change, without accounting for liabilities;

1=Decision-making processes are defined but are only occasionally followed, and accounting for liabilities is not well established;

2=Decision-making processes are defined and upheld, but accounting practices are not adequate;

3=Proper decision-making is both defined and used for PPP project decisions, although accounting for liabilities should be improved for more consistent decisions;

4=PPP project selection is a consistent result of various efficiency, cost-benefit and social-evaluation considerations required by law and accompanied by rigorous accounting practices.

(1.3) Fairness/openness of bids and contract changes: "Do regulations for national-level concession projects unfairly favour certain project bidders and operators over others? Do regulations require and establish competitive bidding (that is, use of objective criteria during the selection process, requiring the publishing of necessary bidding documents, contracts and changes in contracts)? Do regulations require bidding for any significant, additional work necessary? Is a system established for independent oversight of such renegotiation procedures and conditions?"

Scoring:

0=Regulations unfairly favour certain bidders over others, transparency requirements are not in place and contracts are changed in a discretionary manner;

1=Regulations introduce some bias towards particular parties, and bidding, transparency and renegotiation schemes are poor;

2=Project bidding is fair and transparent, but renegotiations and expansions are poorly regulated;

3=Regulations generally define a fair playing field, with consideration for contract expansion, renegotiation and adjustments;

4=Regulations establish fair and transparent bidding procedures, set limits to renegotiations and

adjustments and require independent oversight of post-award procedures.

(1.4) Dispute-resolution mechanisms: "Are there fair and transparent mechanisms for resolving controversies between the state and the operator? Does the law provide technically adequate and efficient conciliation schemes? Must arbitration rulings proceed according to law and to contracts, without lengthy appeals?"

Scoring:

0=Dispute-resolution systems for PPPs are undefined and insufficient;

1=Dispute-resolution mechanisms exist, but these are not transparent or efficient;

2=Adequate dispute-resolution mechanisms exist, but arbitration and appeals are lengthy and complex;

3=Comprehensive, effective dispute-resolution mechanisms exist, incorporating necessary technical considerations;

4=Effective and efficient dispute-resolution mechanisms establish independent arbitration according to law and contracts, without lengthy appeals and with accompanying viable prejudicial reconciliation options.

2. Institutional framework

(2.1) Quality of institutional design: This indicator evaluates the existence and role of various agencies necessary for proper project oversight and planning at the federal level, such as a PPP board at ministerial level, a State Contracting Agency and a PPP Advisory Agency and a Regulatory Agency for the enforcement of project standards. It also considers the oversight role and involvement of government budget and planning offices.

Scoring:

0=PPP-specific agencies or boards do not exist, and relevant institutions in this sector lack accountability and independence from rent-seekers;

1=Some oversight and checks and balances exist, but these are not comprehensive, and agencies are highly prone to political distortion;

2=Agencies exist and are fairly technical in nature, but do not play all necessary roles for comprehensive sectoral oversight;

3=The necessary agencies exist and generally fill all necessary roles for sector oversight, although their structure and roles could be improved;

4=The institutional design establishes satisfactory oversight and planning agencies, and incorporates checks and balances so as to ensure effective planning, regulation and increased accountability.

(2.2) PPP contract, hold-up and expropriation

risk: “Does the judiciary enforce property rights and arbitration rulings? Does the judiciary uphold contracts related to cost recovery? Can investors appeal against rulings by regulators, expedite contract transfer for project exit and obtain fair compensation for early termination?” Also considers whether the state has an expedite mechanism for replacing failed operators to protect creditors’ rights.

Scoring:

0=The judiciary is a poor enforcer of private operator and investor rights and arbitration rulings, and there is no effective appeals process;

1=The judiciary occasionally upholds PPP operator and investor rights and arbitration rulings, but in an inefficient manner;

2=The judiciary usually upholds contracts, PPP operator and investor rights and arbitration rulings, but hold-ups are common;

3=The judiciary consistently and effectively upholds contracts and allows for appeals to the regulator for rulings; it ensures fair compensation for early termination and transfer of contracts, although delays occur and can generate hold-up risk;

4=The judiciary effectively enforces PPP operator and investor rights and arbitration rulings, allowing for expedited contract transfers and ensuring that early termination occurs only in exceptional public-interest circumstances, with fair compensation to the operator and protection to creditors.

3. Operational maturity

(3.1) Public capacity to plan and oversee PPPs:

“Are the public capabilities robust for planning, design/engineering, environmental assessment, oversight of national-level project service standards and conflict resolution? And do government officials have expertise in project financing, risk evaluation

and contract design? Do financial authorities employ proper accounting practices when considering fiscal and contingent liabilities? Do they have a reputation for designing contracts that reduce post-bid opportunism?”

Scoring:

0=Federal agencies do not have any necessary expertise or experience;

1=Federal agencies have very limited project expertise and experience;

2=Federal agencies have some project planning, design and financing expertise or experience and oversee service quality to a limited extent;

3=Federal agencies generally have the necessary comprehensive project planning, design and financing expertise and experience, exhibiting moderate service quality oversight capacity;

4=Federal agencies have the necessary expertise and experience and effectively regulate the sector on a consistent basis.

(3.2) Methods and criteria for awarding projects:

“What is the track record of federal agencies for using competitive bidding and objective economic factors as the primary consideration in final project and contract awards? Are incentive-efficient schemes used for allocating projects (for example, in toll-road projects, using net present value of revenue with contract periods of variable length)?”

Scoring:

0=The granting agency awards projects based on subjective considerations and does not use objective, economic variables;

1=The granting agency has a poor track record, but does consider economic factors with some limits to discretion;

2=The regulator considers economic criteria to award projects, although these are not always the most efficient and appropriate ones, and subjective factors still play an important role;

3=The regulator has a good track record that could be improved (that is, it uses economic variables, but does not give these priority over other factors);

4=The regulator has an excellent track record and uses economic criteria in an effective, transparent and consistent manner.

(3.3) Regulators' risk-allocation record: "Has the allocation of risk between the state and the private sector been successful for national-level projects in recent years? How effective has the use of guarantees and performance bonds been for project-risk diversification?"

Scoring:

0=Risk allocation is often handled inappropriately;

1=Risk has been allocated properly only on certain occasions, as evidenced by a high incidence of contract renegotiation, and hedging and insurance instruments have been minimally used;

2=Risk is usually distributed fairly between the state and the operator, but renegotiations are still common and financial instruments, such as insurance, guarantees and performance bonds, are occasionally used;

3=Risk has been fairly distributed, renegotiations have been moderate, and parties employ some financial risk-hedging practices;

4=Risk has been consistently allocated correctly between the state and the private sector to minimise renegotiations, with extensive and effective use of financial instruments.

(3.4) Experience with transport, water and electricity projects: This indicator draws on information from the World Bank's Private Participation in Infrastructure (PPI) database on the number of concession projects that reached financial closure in the past ten years and observations made by researchers in-country.

Scoring:

0=No evidence of projects in the market;

1=Evidence of a handful of projects in the market;

2=Approximately under 100 projects in the market;

3=Between 100 and 250 projects in market;

4=More than 250 projects in the market.

(3.5) Quality of transport, water and electricity projects: This indicator draws on the distress and failure rates of transport, water and electricity concession projects over the past ten years from the World Bank's PPI database and observations made by researchers in-country.

Scoring:

0=Evidence of retreat of PPPs or nationalisation;

1=Likely high risk of distress;

2=Likely moderate risk of distress;

3=Likely low risk of distress;

4=Very rare cases of distress.

4. Investment climate

(4.1) Political distortion: Evaluates the level of political distortion affecting the country's private sector. Each country's score is a weighted average of The Economist Intelligence Unit's political stability and government policy effectiveness risk scores and the Transparency International Corruption Perceptions Index. Scores range from 0 to 100, where 0=worst and 100=best.

(4.2) Business environment: Evaluates the quality of the general business environment for infrastructure projects. Each country's score is a weighted average of The Economist Intelligence Unit's market opportunities and macroeconomic risk scores. Scores range from 0 to 100, where 0=worst and 100=best.

(4.3) Political will: This indicator evaluates the level of political consensus, or will, to engage private parties in concessions (PPPs) and to provide favourable implementation frameworks across the electricity industry and water/sanitation and transport sectors.

Scoring:

0=The government has consistently shown a lack of interest or inconsistent intentions in engaging private participation through concessions or improving frameworks; conditions for private investment are hostile;

1=The government has shown some reluctance to engage private participation through concessions (PPPs) and provide favourable frameworks, either because of disagreement among or explicit opposition from significant political groupings;

2=There is political consensus surrounding the need to engage private participation through concessions (PPPs) and provide favourable frameworks, although implementation is slow;

3=There is political consensus to maintain favourable

frameworks and to be proactive with concession projects where appropriate, and the likelihood of major political delays is low.

5. Financial facilities

(5.1) Government payment risk: “Does the government regularly fulfil obligations for PPP contracts or use liquidity-guarantee schemes to reduce non-payment risk?” Also considers The Economist Intelligence Unit’s sovereign debt risk ratings.

Scoring:

0=The government struggles to fulfil obligations to concessionaires;

1=The government occasionally fulfils obligations;

2=The government usually fulfils obligations;

3=The government usually fulfils obligations and provides some minimal guarantees to investors;

4=The government has an excellent track record of fulfilling obligations and provides strong guarantees to investors.

Please note: in certain cases where project- or sector-specific information was not obtainable, scoring considers The Economist Intelligence Unit’s sovereign debt risk ratings. For these instances, scoring employs the following guidelines: 0=rating of CCC and below, 1=B rating, 2=BB rating, 3=BBB and A rating, and 4=AA or AAA rating

(5.2) Capital market for private infrastructure

finance: “How available and reliable are long-term debt instruments for infrastructure financing? Is there a developed insurance and pension market with useful products for infrastructure risk reduction? Are interest-rate or exchange-rate hedging instruments available?”

Scoring:

0=The markets for finance and risk instruments are underdeveloped or non-existent, and only foreign sources provide project funding;

1=The market for local finance is slowly developing, although most finance comes from international sources and risk-hedging instruments are not robust;

2=Some finance and risk instruments exist, although financing still comes mainly from foreign and multilateral organisations;

3=There is a large, reliable domestic market for financing, but risk instruments are still developing in size and complexity;

4=There is a deep, liquid finance market locally, as well as a reliable and large local market for hedging instruments.

(5.3) Marketable debt: “Is there a liquid, deep, local-currency-denominated, fixed-rate, medium-term (five years +) bond market in marketable debt (that is, debt that is traded freely)?”

Scoring:

0=There is no securities market for fixed-rate financing of over one year;

1=There is a government securities market in place, but for short maturities only;

2=The government is fostering a medium-term market;

3=There is a medium-term (five years +) debt market, but only for public-sector (government bond) issuers;

4=There is a medium-term (five years +) debt market for both public- and private-sector issuers.

(5.4) Government support for low-income users and infrastructure affordability:

“Does the government provide subsidies that allow low-income users better access to electricity, water and transport services?”

Scoring:

0=The government does not subsidise the water or transport sector, or has done so in an extremely distortionary manner;

1=The government does not subsidise the water or transport sector, or has done so in a moderately distortionary manner;

2=The government occasionally provides subsidies for improved access to water or transport for the poor, but these are infrequent or applied only in certain cases;

3=The government usually provides satisfactory subsidies for low-income users, but this can vary by sector and project;

4=Subsidies are common, reliable and effectively targeted at low-income users.

6. Subnational adjustment

(6.1) Subnational adjustment: This indicator evaluates whether infrastructure concessions can be carried out at a regional, state or municipal level, and the relative success and consistency of these frameworks.

Scoring:

0=The legal framework does not allow regional or municipal entities to concession public works, or in practice the requirements are extremely cumbersome;

1=The legal framework allows regional and municipal entities to concession public works, but technical capacity or political will are lacking;

2=A few successful examples of regional or municipal concessions exist, but capacity and projects at this level across the country are generally weak;

3=A significant concessions programme has been developed at a municipal or regional level, with good implementation capacity and institutional design;

4=An important and diverse (in terms of sectors and locations) concession programme has been developed at the municipal or regional level, and it benefits from a homogeneous framework, good local implementation capacity and institutional design.

Appendix III

Glossary

Act of authority: Unilateral action by the government to change the economic specifications and terms of a contract.

Build-Operate-Own (BOO): The granting of ownership rights to the private-sector partner in perpetuity to develop, finance, build, own, operate and maintain as an asset with no transfer to the public sector.

Build-Operate-Transfer (BOT): Transfer of responsibility for constructing, financing and operating a single facility to a private-sector partner for a fixed period of time.

Collusion risk: The risk that private-sector bidders or operators will create agreements among themselves that do not benefit the sustainability of a project or the government financing portion.

Competitive bidding: The use of objective criteria during the selection process, requiring the publishing of necessary bidding documents, contracts and changes in contracts.

Concession: A right granted from a government to a private-sector actor.

Contingent liabilities: A potential liability on the balance sheet that is dependent on the outcome of future events.

Contract termination: Project facilities are transferred to the government, usually for nil or nominal consideration and up to conditions predefined in the PPP contract.

Cost-benefit analysis: An evaluation of the potential costs and revenues that may be generated if the project is completed.

Design-Build-Finance-Operate (DBFO): Private-sector partners are asked to supply resources for having the project built, and their future revenue streams are usually based on payments made by the public sector or shadow tolls.

Divestiture: Full divestiture, also known as privatisation, occurs when all or substantially all the interests of a government in a utility asset or a sector are transferred to the private sector.

Economic criteria: Criteria for selecting PPP projects based on economic factors, such as the net present value of a project's revenue and the amount of subsidies requested by bidders or payments offered, among others.

Equity arbitration: A more informal arbitration regime, whereby parties attempt to resolve disputes based on fairness and equity considerations rather than using a strict application of the law.

Feasibility study: An analysis of the ability to complete a project successfully, taking into account legal, economic, technological, scheduling and other factors.

Financial or economic equilibrium: An equation that relates costs, revenue and return on investment for private-sector participants. The equilibrium principle is specified in project contracts and makes important assumptions about demand levels, proper service levels, a project's financial stability (including transfer payments to the government) and project investment costs.

Greenfield projects: New construction or the development of new infrastructure.

Hold-up risk: The risk that private-sector actors will lengthen arbitration processes in order to skew outcomes in their favour.

Lease contract: A contract type in which a public entity delegates management of the public service to a private operator. The public entity—the owner of the assets—is responsible for new investments, major repairs, debt service, tariffs and the cost-recovery policy. The private operator is responsible for operating and maintaining the service, billing and investment needed for the upkeep and renewal of certain existing assets (electro-mechanical) and may also be responsible for the renewal of part of networks.

The operator advises the public sector on investments and extensions to achieve. This type of contract is generally concluded for a period of 10-15 years.

Management contract: A contract type where public authorities transfer the responsibility for operating and maintaining the service to a private operator for a period of 3-5 years. A team of managers, seconded by private enterprise, is placed in a leadership position in the public entity to lend support in managing the service. In this type of contract, the contractor has no legal relationship with the consumer. In addition, the operator has no investments to make this remains the responsibility of public authorities.

Public comparator: A method of evaluating PPP projects where the costs of contracting infrastructure projects through full public provision and financing are used as a benchmark to assess the value-for-money benefits offered by PPP alternatives.

Risk allocation: Distribution of proportional risk to the parties in a contract.

Single-source bidding: A contract awarded by way of soliciting and negotiating with one entity.

Technical criteria: Criteria for selecting PPP projects based on engineering, architectural design and technological aspects.

Value-for-money analysis: An analysis that compares the benefits of contracting infrastructure projects through a PPP scheme with the benefits of traditional public-sector procurement and investment.

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