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LAW, JUSTICE AND DEVELOPMENT WEEK 2014

FINANCING AND IMPLEMENTING THE POST-2015 DEVELOPMENT AGENDA



The Global Forum on Law, Justice and Development **October 20-24, 2014** **World Bank Headquarters**



Small Scale PPP Session: Managing public utilities with small private operators

SCPPPs ARE NOT A MINOR MATTER

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Universidad
Rey Juan Carlos





THE WORLD BANK

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INTRODUCTION

THREE MAIN GOALS:

ERADICATING EXTREME PROVERTY

PROMOTING SHARED PROSPERITY

ENSURING SUSTAINABILITY

INNOVATION & SOCIAL DEVELOPMENT



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1 REGULATORY FRAMEWORK



LEGAL FRAMEWORK FOR PPPs

SAMPLE USED

Albania	European Union	Madagascar
Angola	France	Mexico
Argentina	Ghana	Morocco
Australia	Greece	Mozambique
Brazil	Guatemala	Perú
Bulgary	Honduras	Portugal
Cameroon	India	Philippine
Chile	Indonesia	Romania
Colombia	Ireland	Senegal
Albania	Northern Ireland	Slovenia
Angola	Italy	Singapore
Argentina	Fiji	South Africa
Australia	Kosovo	Uruguay
Croatia	Kenya	
Czech Republic	Kuwait	
Egypt	Macedonia	

LEGAL FRAMEWORK FOR SCPPPs

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ENABLING ENVIRONMENT FOR SCPPPs

LEGAL FRAMEWORK FOR SCPPPs

There is no international consensus in defining the term SCPPPs.

Variables: contract value and duration

New types of PPPs

Many countries still do not have a PPP law

No clear definition of the boundaries and scope of application of the legal framework (e.g. definition of "PPP", sectors concerned, competent authorities, eligible private party)

Lack of mandatory application of a fair and transparent tender selection process.

Cross-country PPP agreements need a Model Law

LEGAL FRAMEWORK FOR SCPPPS

SAMPLE USED

Country	Source	Size exclusion criterion of PPP	Contract duration exclusion criterion of PPP
Angola	Law 1/11 of 14 January of 2011. Lei de Bases do Regime Geral do Sistema Nacional de Planeamento.	Contractual value \leq \$5.10 Millions (500M of Kwanzas)	\leq 3 years
Brazil	Law 11.079 of 30 December of 2004. Federal PPP Lei.	Contractual value \leq \$6.64 Millions (20M of Brazilian Real)	\leq 5 years
Bulgary	Law 45/2012 of 15 June of 2013. PPP Act.	Not detailed	\leq 5 years
Egypt	Law 67/2010 of 18 May of 2010. PPP infrastructure Projects, Services and Public Utilities.	Contractual value \leq \$13.86 Millions (100M of Egyptian Pounds)	\leq 5 years
France	Law 2008-735 of 28 July 2008. Loi relative aux Contrats de Partenariat. Decree 2013-1259 of 27 December 2013. Décret les seuils applicables aux marchés publics et autres contrats de la commande publique.	Contractual value \leq \$173,680 (service contracts of the State); \leq \$268,297 (service contracts of local entities); \$536,594 (defense and security contracts); and \$6.72 Millions for public work contracts.	\leq 5 years
India	National Policy of PPP (2011).	Contractual value \leq \$409,433 (25M of Rupians)	\leq 10 years

LEGAL FRAMEWORK FOR SCPPPS

SAMPLE USED

Country	Source	Size exclusion criterion of PPP	Contract duration exclusion criterion of PPP
Portugal	Law 111/2012 of 23 May 2012. PPP Lei. Law 18/2008 of 29 January 2008. Código dos Contratos Públicos.	Contractual value \leq \$32.36 Millions (25M of Euros)	Not detailed
Romania	Law 178/2010 of 1 October 2010. PPP Law.	Contractual value for works \leq \$161,803 (125,000 of Euros) Contractual value for goods and services \leq \$6.27 Millions (4.845M of Euros)	Not detailed
Mozambique	Law 14/2011 of 10 August of 2011. Lei de Parcerias público-privadas Law 15/2011 of 10 August of 2011. Lei de Parcerias público-privadas de Grande Dimensao Decree 16/2012 of 4 July of 2012. Regulation of the PPP, Long Scale of PPP and Business Concessions Decree 69/2013: Regulamento de Parcerias Público-Privadas e Concessões Empresariais, de Pequena Dimensão	Grande PPP \geq \$413,907 (12,500,000,000 MZN) meticais SCPPP \leq \$165,563 (5000000 meticais MZN)	Not detailed



2

ENABLING ENVIRONMENT FOR SCPPPS

REASONS TO PROMOTE A MODEL LAW

It could be used to harmonize and modernize laws in this field at the national level.

It could help to warrant protection for foreign investors and preserve the vital interests of the host country, including its regulatory policy space.

It could help governments to benchmark legal best practices and develop them into international standards.

It would offer a warranty of security to the private sector for fair redress in the case of disputes.

It would drive down project costs, increase efficiency and improve innovation.



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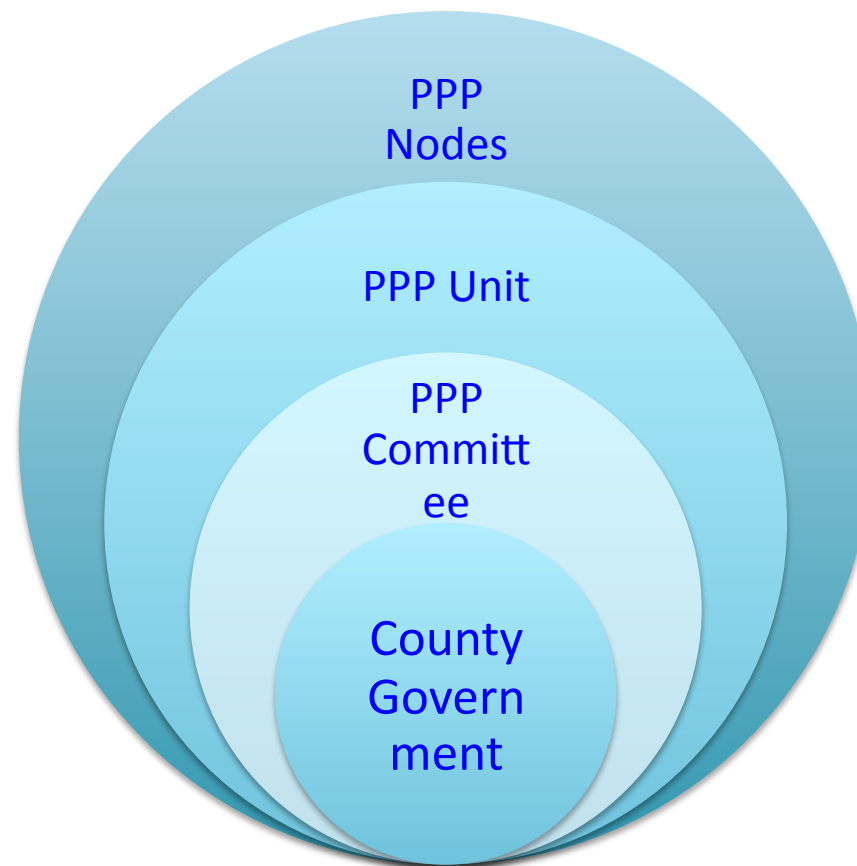


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INSTITUTIONAL FRAMEWORK



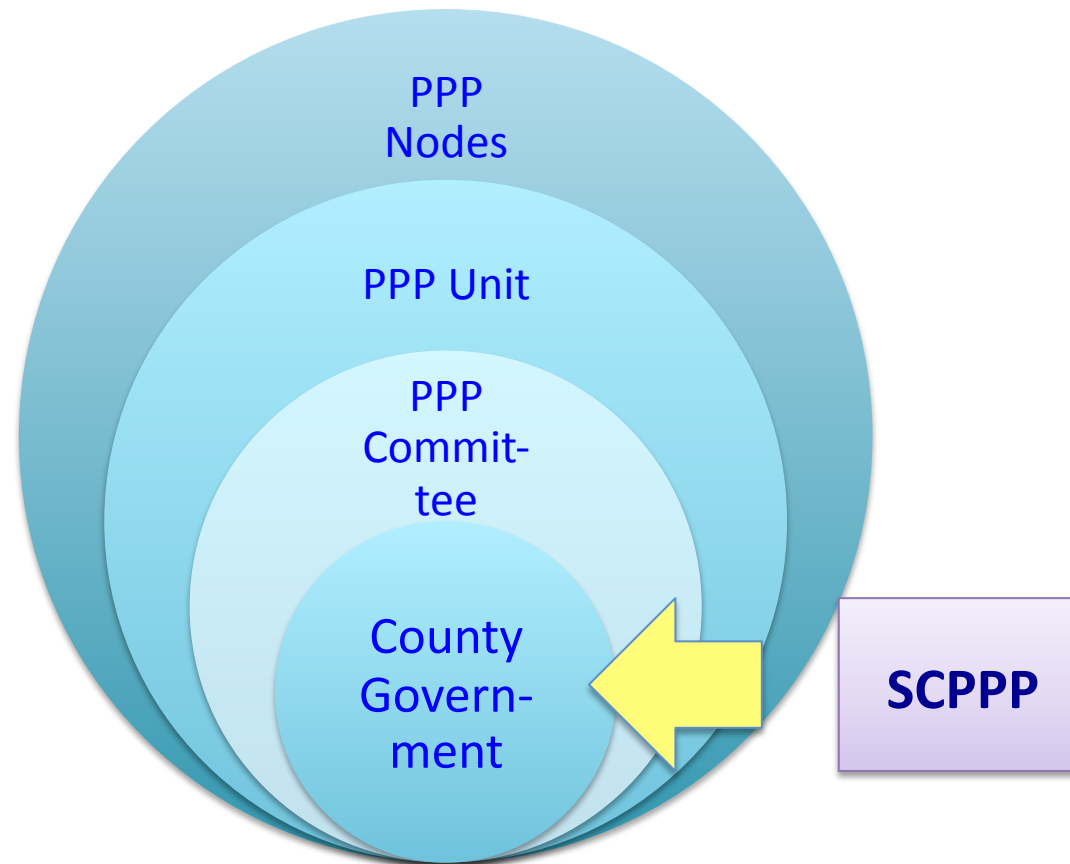
INSTITUTIONAL FRAMEWORK FOR SCPPPS



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INTRODUCTION

INSTITUTIONAL FRAMEWORK FOR SCPPPS





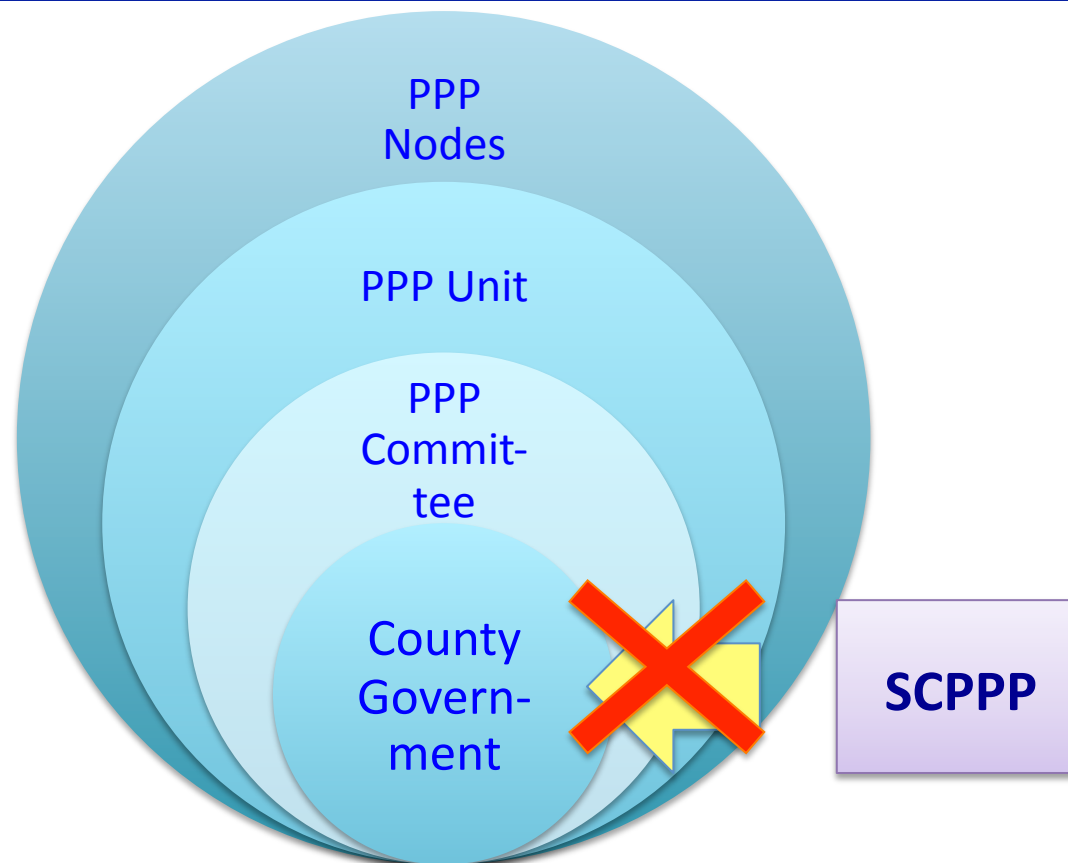
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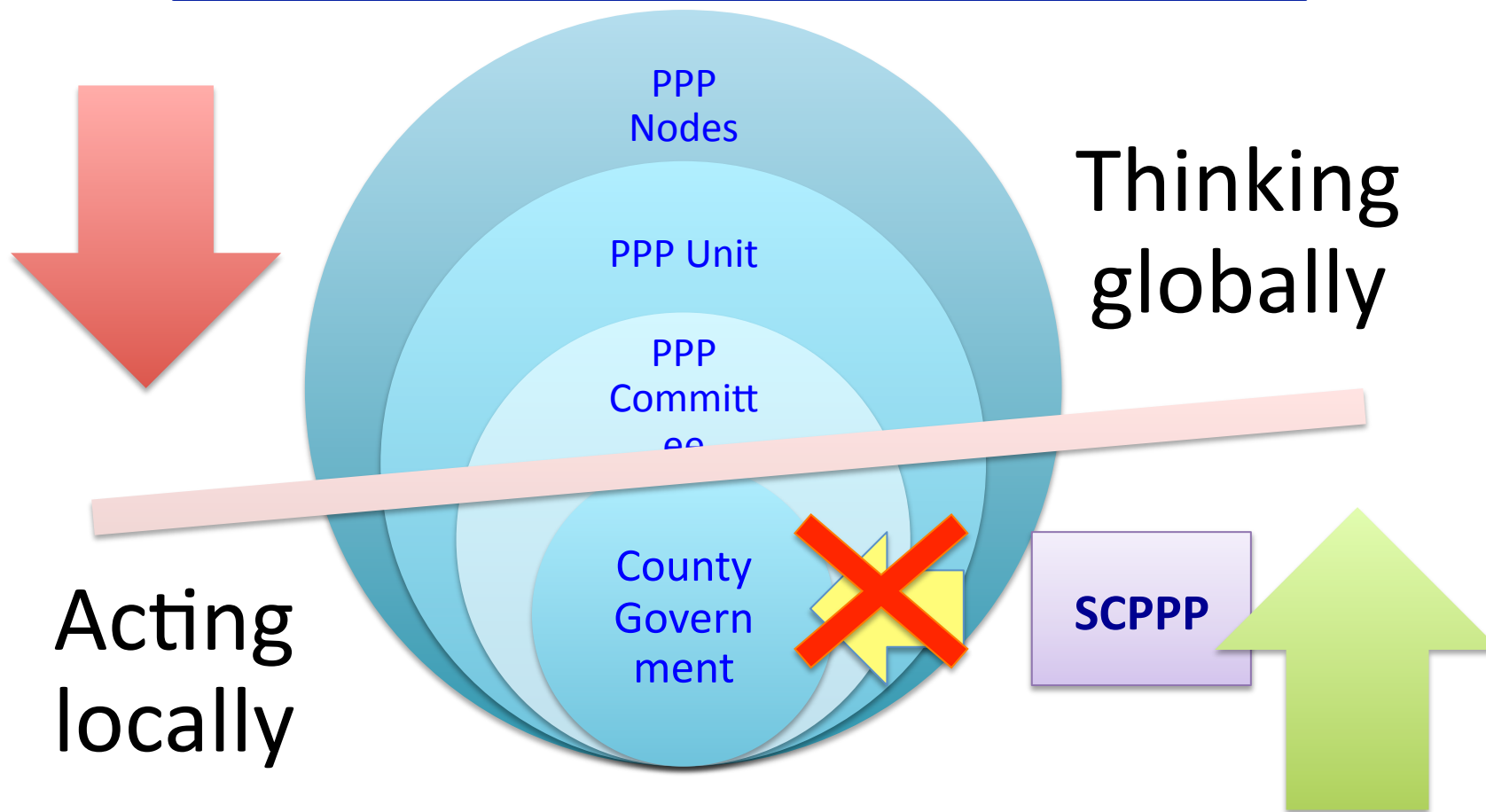
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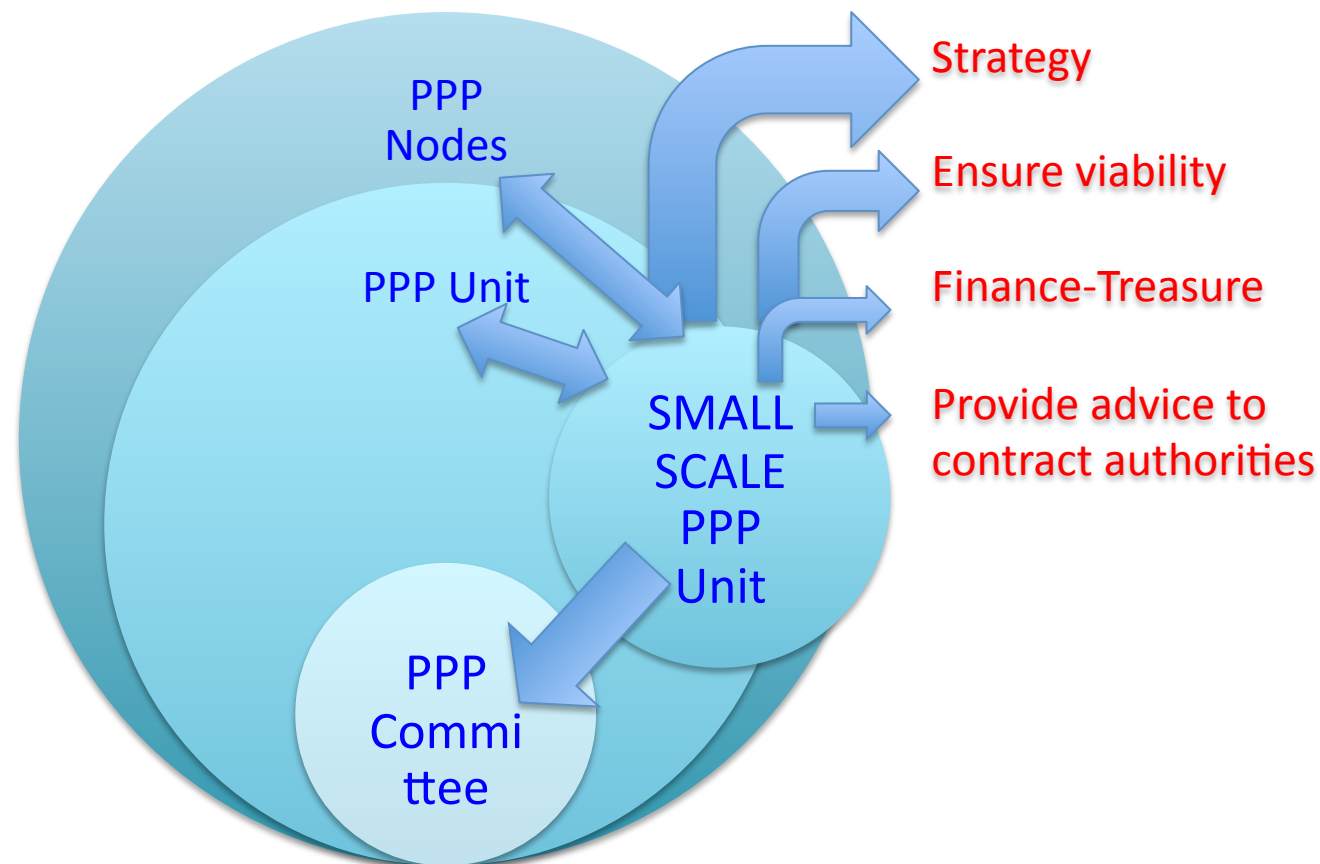
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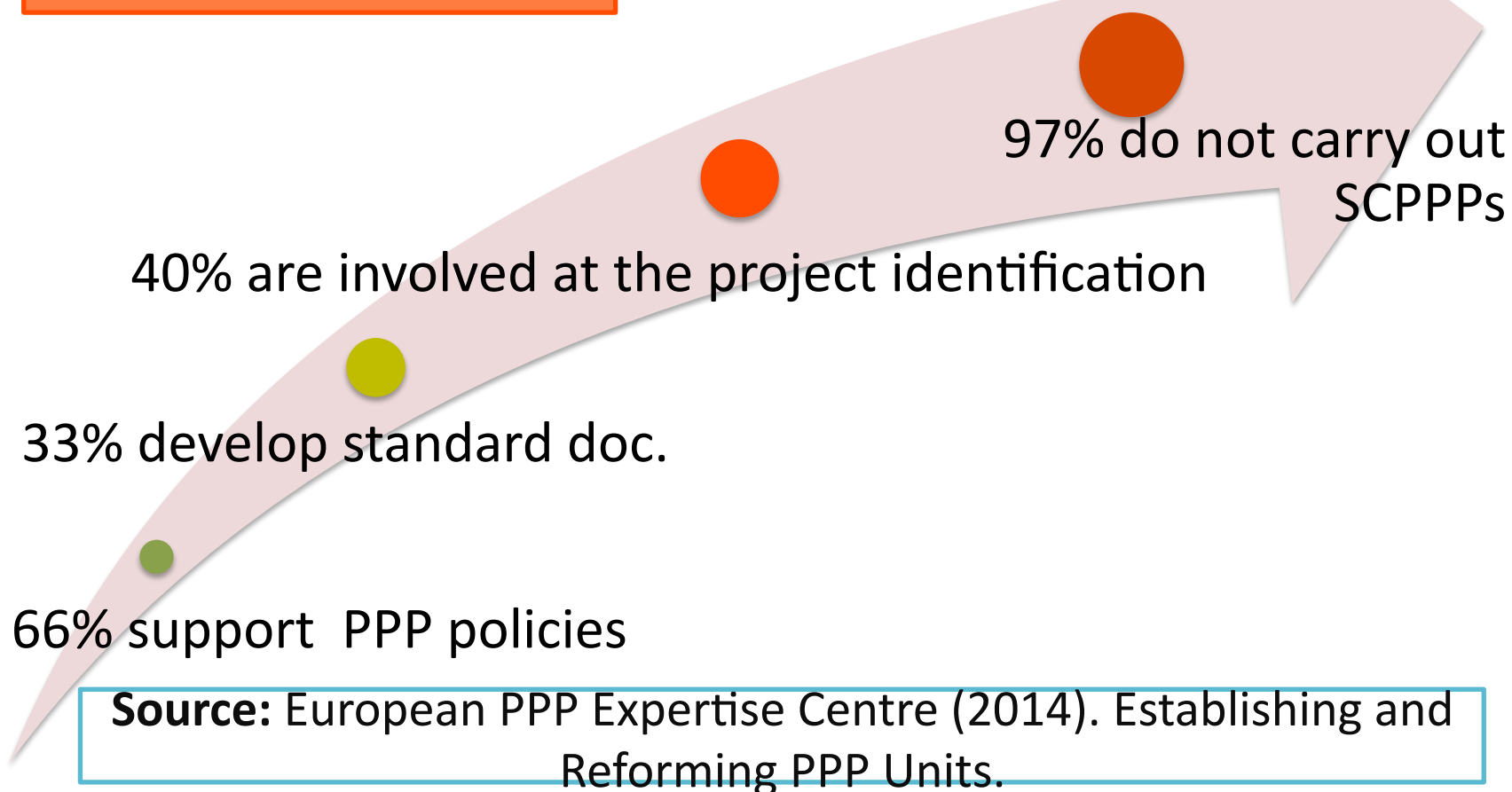
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PPP UNITS' ROLES



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SCPPP UNITS' ROLES





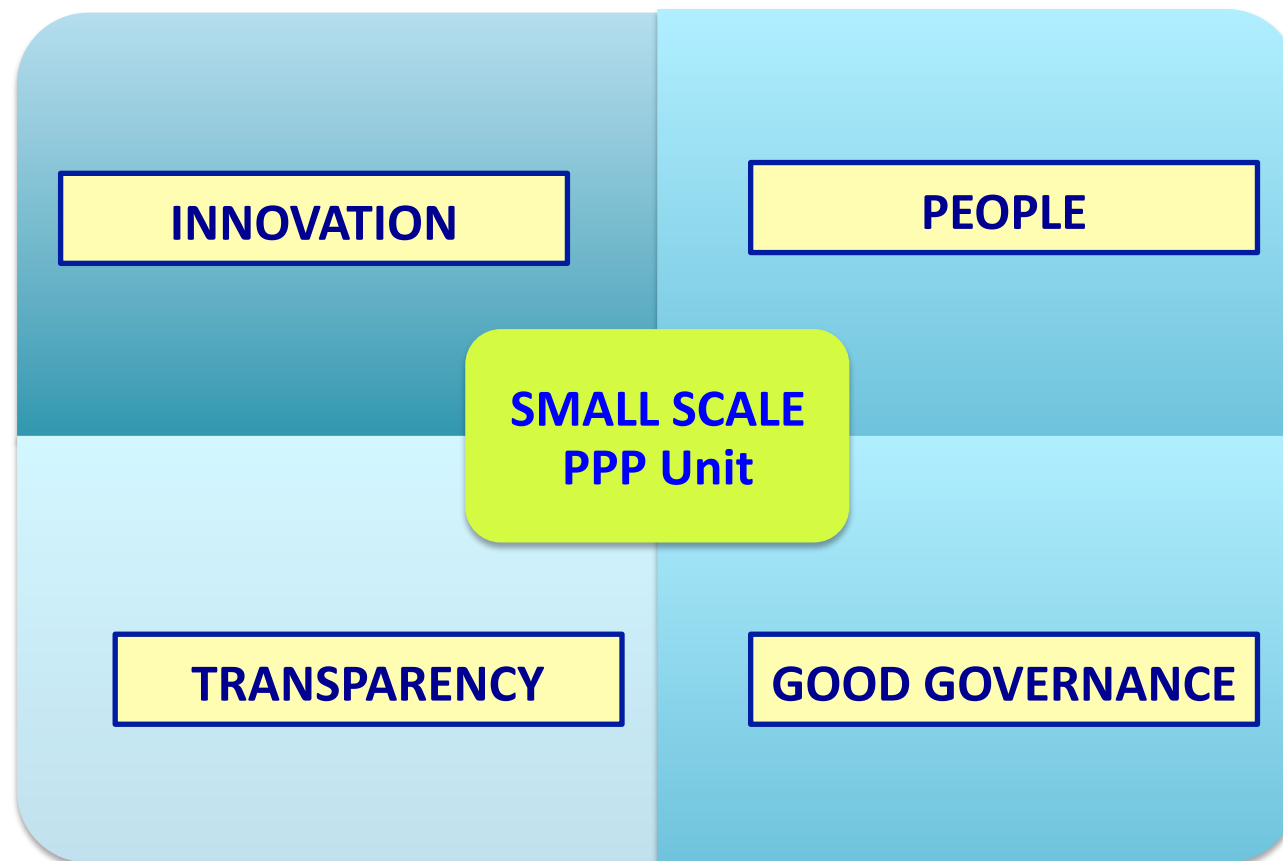
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REASONS TO PROMOTE SCPPP UNITS

- To provide specific expertise to support SCPPP policy development.
- To be involved in project identification and feasibility studies
- To standardize policies and procedures developed locally, adding transparency
- To **promote SCPPP projects** and to **share best practices**
- To offer coordination among different players
- To support contract negotiations, bid evaluations and the overseeing of projects.



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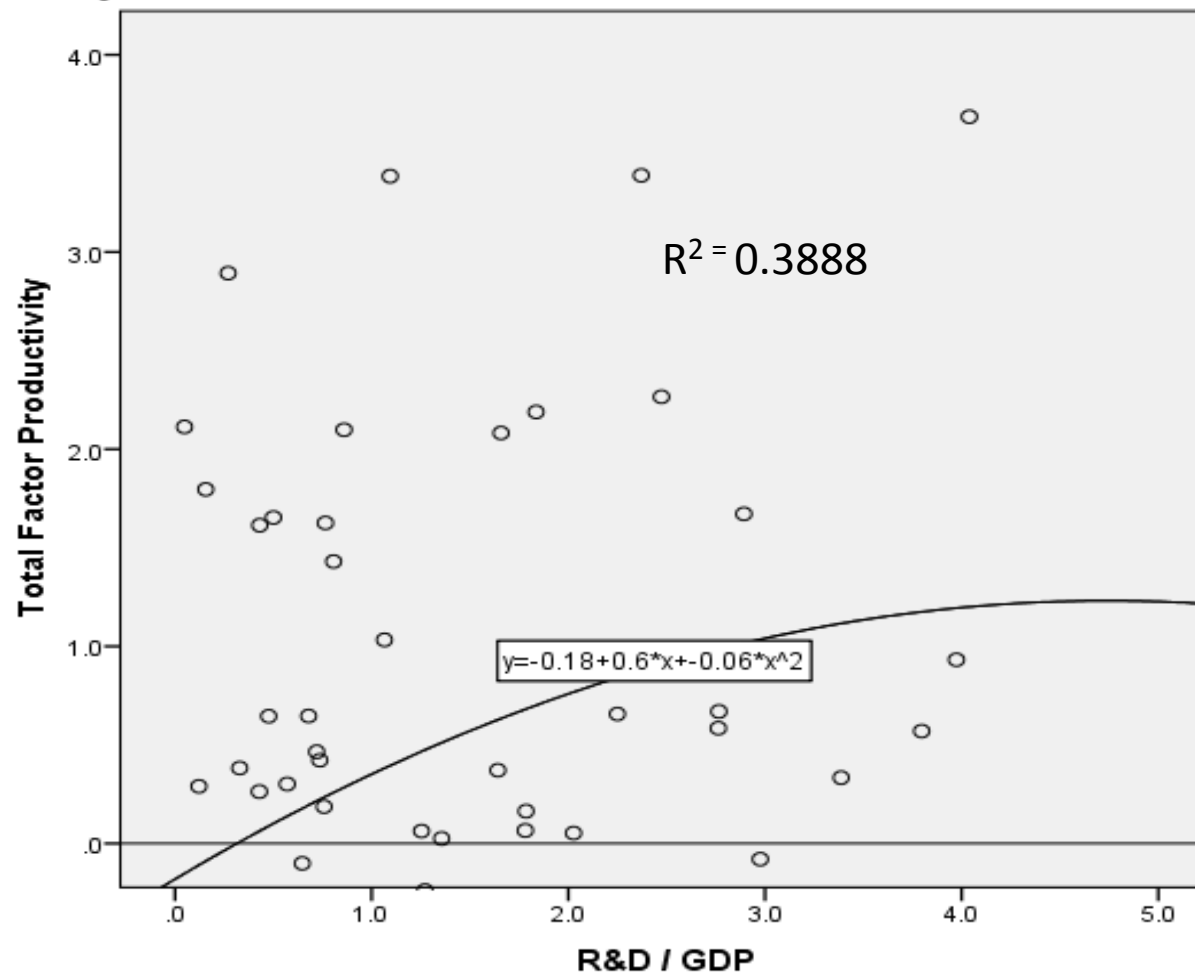
SOCIETY'S ENGAGEMENT

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Sources: The World Bank and The Conference Board Total Economy Database, 2012

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R&D Private Return

Sample	Balanced	Unbalanced
Coefficients		
Employment growth rate	0.276	0.697
R&D investment contemporaneous	-12.088**	-6.100***
Lag R&D investment	12.630**	6.396***
Capital investment	0.188**	0.165***
Capital return	0.188	0.165
R&D return (sum)	0.544	0.296

Sources: Benavente, De Gregorio, y Nuñez, 2005

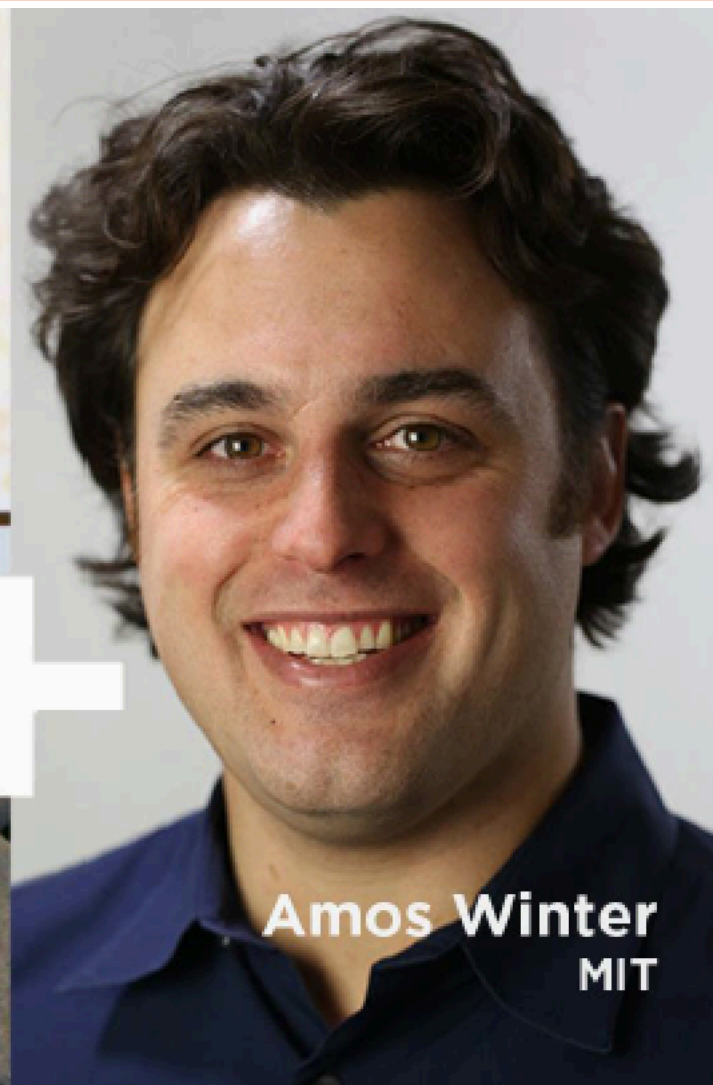


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Fanny Quispe
Villarrica, Perú



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INVESTMENT CLIMATE



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SCPPPs bring opportunities:

- To create flexible frameworks for reducing exclusion
- To use new financial instruments, such as Ethical Investment Bonds (EIBs) in which individual investors are allowed to buy shares.
- To simplify the process of PPPs and relax the taxes paid by the private sector
- To promote innovative projects

IS IT TIME NOW TO PUSH SCPPPs?

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