

Works for Taxes:

Measure to transform the areas most affected by the armed conflict in Colombia

Maintain it? What for?

Current situation analysis



Works for Taxes:

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Maintain it? What for?

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1. Introduction

Within the framework of the Financing Law (Ley de Financiamiento), there is an ongoing discussion regarding the funding of the post conflict. The Government has insisted that there is no money; however, adjustments made to the Works for Taxes (Obras por Impuestos) revenue mechanism open the door to take corrective measures to ensure that investments on peace matters by businesses and by the institutional framework are not diluted in minor, isolated works.

At the Fundación Ideas para la Paz, we analyzed how the Works for Taxes¹ mechanism operated during its first year of implementation, and we also analyzed the main changes following the most recent tax reform.

The FIP believes in the urgency of getting the National Government to determine the long term purpose of this mechanism, if the expectation is that it will be a high impact instrument for the financing of public goods aimed at the territorial transformation of the areas most affected by the conflict (ZOMAC Spanish Acronym).

This document reviews the mechanism's procedural and tax matters, as well as its operation in relation to four issues:

- Its pertinence in view of the purpose of driving the transformation of the areas most affected by the conflict.
- The role of the ZOMAC Project Bank in closing the gaps and invigorating the territories.
- The State - Business - Citizens relationship.
- Operating aspects related to its application and the projects' sustainability.

With the support of the Swedish Embassy, FIP collected the official information available on the status of the implementation of the mechanism, contacted the government entities responsible for the mechanism and, along with the Chamber of Commerce of Bogotá, promoted a space for dialogue with the businesses and trade unions² who have used it. This document gathers all those inputs and debates, as well as recommendations that will allow us to reflect, within the current situation, about the pertinence of Works for Taxes and, in a broader scope, about the tax tools that may complement the peace building policy.

After a year in operation, FIP analyses how the Works for Taxes mechanism has operated, based on four main issues: its purpose to bolster the areas most affected by the conflict, the project bank, the relationship between State, business and the citizens, and its application and sustainability

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¹ Law 1819 of 2016.

² Asociación de Fundaciones Empresariales - AFE (Association of Business Foundations), Alianza Fiduciaria, Andi (National Industrial Association), Agencia de Renovación del Territorio - ART (Territory Renovation Agency), Cámara de Comercio de Bogotá (Chamber of Commerce of Bogotá), CCI - Cámara Colombiana de Infraestructura (Colombian Chamber of Infrastructure), Celsia, Cementos Argos, Corona, Diseleca, Ecopetrol, Embassy of Sweden, Enertolima, Ernst & Young, Esfera Ambiental, Fdi - Pacífico, Federación Nacional de Cafeteros, Grupo Argos, Grupo Sura, Ministry of Education, Mineros, Parex, Presidency of the Republic, Prodeco, Reconciliación Colombia, Servigenerales and Terpel

2. The mechanism

In 2016, the tax regime included two new mechanisms among the instruments promoted by the National Government to fulfill the peace building goals: ZOMAC tax incentives and Works for Taxes.

The purpose of the tax incentives in the areas most affected by the Conflict (Zonas Más Afectadas por el Conflicto – ZOMACs, for its acronym in Spanish) is to provide motivations for the creation of new businesses in the 344 municipalities that make up the ZOMACs, through a special tax regime whereby new partnerships, regardless of their size, whose main place of business is located and who engage in their economic activity in such municipalities, shall have a special income tax rate for the following 10 years³. According to data provided by the Ministry of Finance, as of May 2018, this mechanism had driv-

en the creation of 407 new businesses in 21 states throughout the country, mainly concentrated in Antioquia, with 80 businesses; Caquetá, with 64, and Valle del Cauca, with 36⁴.



³ Law 1819 of 2016.

⁴ Bulletin 056, Ministry of Finance and Public Credit: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-115626%2F%2FidcPrimaryFile&revision=latestreleased



Working group for exchanging experiences on the first year of implementation of the Works for Taxes mechanism

The second mechanism -Works for Taxes- allows legal entities with revenues equal to or greater than 33,160 UVTs (Tax Value Units)⁵, to pay up to 50% of their income taxes by means of the direct execution of investment projects with an impact on the ZOMACs. At first, these projects could involve infrastructure building or improvement, as well as outfitting for the provision of sewage, energy, public education, drinking water, road infrastructure or public health⁶. With the approval of the recent Financing Law, these sectors will be expanded to include the following: drinking water and basic sanitation; energy; public health and education; rural public goods; adaption to climate change and risk management; communications; transportation infrastructure, productive, cultural and sports infrastructure, and any others set forth in the operating manual of the Works for Taxes⁷.

During the first year of implementation of Works for Taxes —corresponding to financial year 2018 (tax year 2017)—, the allocation determined by the Superior Council on Fiscal Policy (Consejo Superior de Política Fiscal - CONFIS) was set at COP\$250 billion, and 23 applications were approved for an overall amount of COP\$220,616 million⁸ (meaning that 88.2% of the available allocation was used). These works are under way in 25 out of the 344 municipalities that comprise the ZOMACs, with its main impact in the states of Antioquia and Nariño. Regarding the sectoral distribution of the businesses, the energy provision and transmission sectors stand out, as well as industry and trade. In terms of the kind of projects, they are focused on road infrastructure and public education.

In quantitative terms, the balance of the first year of implementation is positive: not only the regulations and procedures to commission the mechanism were put in place, but the response received from the business sector made it possible to execute the majority of the CONFIS allocation and the works are under way. In comparison, taking Peru's experience — the case

that inspired the mechanism in Colombia— during the first year, only two projects were funded, involving an approximate amount of 1.8 million dollars⁹, while in Colombia 23 projects were approved, involving an approximate amount of 70 million dollars.

TABLE 1

SECTORAL DISTRIBUTION OF THE BUSINESSES

SECTOR	
ENERGY TRANSMISSION AND PROVISION	8
INDUSTRIAL AND COMMERCIAL	7
FINANCIAL AND OTHER SERVICES	5
OTHER PUBLIC SERVICES	4
MINING AND HYDROCARBONS	4
TOTAL BUSINESSES	28

Source: Agencia de Renovación del Territorio (Territory Renovation Agency)

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⁵ Tax Value Unit (UVT, for its acronym in Spanish) is a value measuring unit that represents the tax values previously stated in pesos. Its purpose is to standardize and homogenize the different tax values.

⁶ Decree 1915 of November 2017 <http://es.presidencia.gov.co/normativa/normativa/DECRETO%201915%20DEL%2022%20DE%20NOVIEMBRE%20DE%202017.pdf>

⁷ Article 71, Law 1943 of 2018. <http://es.presidencia.gov.co/normativa/normativa/LEY%201943%20DEL%2028%20DE%20DICIEMBRE%20DE%202018.pdf>

⁸ See Annex 1: Matrix of projects funded by the Works for Taxes Mechanism and their respective taxpayers.

⁹ Business ranking per investment amount in Works for Taxes 2009 – 2018(1), Peru: <https://www.obrasporimpuestos.pe/0/0/modulos/JER/PlantillaStandard.aspx?ARE=0&PFL=0&JER=188>

TABLE 2

SECTORAL DISTRIBUTION OF THE PROJECTS APPROVED, AND AMOUNT PER SECTOR

SECTOR	APPROVED PROJECTS	AMOUNT (MILLION)
ROAD INFRASTRUCTURE	9	COP\$ 142.077
PUBLIC EDUCATION	7	COP\$ 20.093
DRINKING WATER AND SEWAGE	6	COP\$ 46.978
ENERGY	1	COP\$ 11.466
PUBLIC HEALTH	0	COP\$ 0
TOTAL	23	\$220.616

Fuente: Presentación Obras por Impuestos -
Agencia de Renovación del Territorio

TABLE 3

MUNICIPAL AND STATE DISTRIBUTION AND AMOUNT (23 PROJECTS WERE APPROVED IN THE FIRST FINANCIAL YEAR)

STATE	Nº OF PROJECTS	COP\$ (MILLION)	AMOUNT %
ANTIOQUIA	6	\$87.310	39,5%
CAQUETÁ	1	\$35.647	16.1%
ARAUCA	2	\$28.678	12.9%
NARIÑO	3	\$19.285	8.7%
GUAJIRA	2	\$9.779	4.4%
CESAR	1	\$4.742	2.1%
TOLIMA	2	\$11.756	5.3%
PUTUMAYO	2	\$14.143	6.4%
SUCRE	1	\$3.158	1.4%
CAUCA	1	\$2.958	1.3%
META	1	\$2.546	1.1%
HUILA	1	\$612	0.2%
TOTAL	23	COP\$ 220,616	100%

Fuente: Agencia de Renovación del Territorio

However, after conversations with business owners and the Government, a generalized opinion was identified: the need to reform the mechanism, either because of flaws in its conception or because of budgetary and sectoral constraints, among others, at the time of implementing the projects. Some of these considerations are gathered in the recent tax reform. However, the fundamental questions about the usefulness of the Works for Taxes mechanism, in view of its initial purpose, are yet to be answered.

2.1. An instrument for territorial transformation and overcoming the conflict?

While the recent Financing Law includes some of the considerations about the need to adjust the mechanism in terms of tax procedures and regulations, little has been said about the relevance of preserving its original purpose of involving the business sector in the transformation processes of the territories most affected by the armed conflict.

Considering that it was created as part of the peace building process, Works for Taxes was based on the conception whereby all interventions would be carried out in a concurrent and complementary manner. This means that, under this instrument, businesses become partners of the State in fulfilling the task of providing goods and services, through the execution of specific projects, to the areas most affected by the conflict. In this manner, the goal is to economically reactivate the intervened territories and thus prevent new cycles of violence.

This focalized territorial vision is based on the idea that 50 years of armed conflict have resulted in severe consequences at the regional level, affecting some municipalities more than others. That is why the consolidation of peace in Colombia requires a series of transformations that should not be executed to

the same extent in all the regions, and therefore they deserve to be prioritized.

Peace Agreement's policies and 2016 tax reform defined two primary territorial prioritizations: the aforementioned ZOMACs and the Development Programs with a Territorial Approach (Programas de Desarrollo con Enfoque Territorial - PDETs)¹⁰, which include 170 municipalities located in 16 subregions where the instruments of the Comprehensive Rural Reform, set forth in the Peace Agreement, will begin operating sooner than in others. According to the Armed Conflict Incidence Index (Índice de Incidencia del Conflicto Armado - IICA, for its acronym in Spanish)¹¹—which incorporates variables such as armed actions, homicide, kidnapping, antipersonnel mines, forced displacement and coca leaf crops—, between 2002 and 2013, 81 municipalities experienced a very high incidence of the armed conflict and another 106 experienced a high incidence; some of these municipalities are prioritized in the ZOMACs and the PDETs. Following a cross-referencing of the IICA with other variables, carried out by the National Planning Department (DNP), it was concluded that those municipalities in which there is a high or very high incidence of the armed conflict show the following characteristics:

- 88% correspond to the rural and disperse rural category, reason for which they show low population densities.
- They have higher poverty levels.
- Their indicator of the multidimensional poverty index is 88.8%, 8.8 percentage points above the national indicator.

- They have small economies, represented in a per capita value added index that is 42% lower than those of municipalities with a medium or low incidence of the conflict¹².

The purpose sought in these territories, today ZOMACs and PDETs, is to reduce the gaps in terms of the legal structuring of rural property and land use, economic reactivation and agricultural production, rural education, housing, drinking water and sanitation, right to food, infrastructure and land adaption, rural health, reconciliation and coexistence.

However, figures for the first year of execution of Works for Taxes show that out of the 23 projects approved in 25 municipalities, only 8.1% of the ZOMACs was impacted, despite the fact that 88.2% of the available budget allocation was used. That figure is paradoxical considering that, while the mechanism began to operate at a good implementation pace, at the strategic impact level in the territory the achievements are rather modest.

Given this reality and considering that the Financing Law only addresses territorial issues by enabling projects out of the ZOMAC municipalities provided they "are strategic for the economic and/or social reactivation of the ZOMACs or any of them"¹³,



¹⁰ Las variables que se tuvieron en cuenta para la priorización de estos territorios fueron: Afectación por el conflicto armado, índice de pobreza, presencia de economías ilícitas y debilidad institucional. (ART)

¹¹ Documento Índice de Incidencia del Conflicto Armado <https://colaboracion.dnp.gov.co/CDT/Politica%20de%20Victimas/Construcci%C3%B3n%20de%20Paz/Documento%20C3%ADndice%20de%20Incidencia%20del%20conflicto%20armado.pdf>

¹² *Ibíd*

¹³ Artículo 71 Ley 1943 de 2018. <http://es.presidencia.gov.co/normativa/normativa/LEY%201943%20DEL%2028%20DE%20DICIEMBRE%20DE%202018.pdf>

the mechanism could continue to be adjusted via regulations, to deepen its core intent of favoring the municipalities most affected by the conflict.

That was the conclusion after the dialogue space promoted by the FIP with the businesses and trade unions that have used it. Among the proposals, five stand out¹⁴:

- Reform the ZOMAC areas and the PDET municipalities to allow for the inclusion of municipalities that are not being considered today, but meet the characteristics of having been affected by the armed conflict.
- Focalize the implementation of the mechanism even further, exclusively taking it to the 170 PDET municipalities, so as to have a greater impact on the territorial transformation.
- Solely direct the mechanism to the implementation of projects in the rural areas of the focalized municipalities, thus strengthening the reduction of urban - rural gaps.
- Consider the extension of the CONFIS allocation, so as to expand the scope of the works in terms of geography and size.
- Implement a municipality rotation system on a yearly basis within the ZOMACs, to extend the impact of the mechanism.

Whatever the formula may be, and without expecting for a single tax instrument to solve the historical problems of the regions, the above proposals should also include the need to ensure that Works for Taxes is connected to the development policies of each territory to escalate their impact in terms of closing the gaps and improving the quality of life of the commu-

nities. To accomplish this, the articulation of the selected projects with the municipal and state development plans and with the PDETs —when pertinent—, needs to be strengthened.

In any case, for future financial years, it is important to consider that focalizing the municipalities affected by the conflict even further entails benefits for the territories, but also major challenges for the businesses. Since, by definition, these municipalities are difficult to access and have precarious infrastructure and poor security and public order conditions, this would complicate meeting the time lines and could imply cost overruns when executing the works, placing their financial viability at risk and discouraging entrepreneurial interest in the mechanism.

2.2. Does the ZOMAC (areas most affected by the conflict) project bank help to close gaps and invigorate the territories?

The ZOMAC project bank is an essential instrument for the achievement of the purposes of the Works for Taxes mechanism since, depending on the projects that comprise it, the sectors it prioritizes and the capacity to articulate themselves with the strategic planning processes of each territory, the actual impact that the works may have on the regional transformation is thereby configured.

Businesses and trade unions suggested the possibility of including new sectors such as telecommunications, environment, culture and sports, irrigation districts, farmers central markets and logistics hubs,

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¹⁴ Ver Anexo 2: Sistematización Mesas de Trabajo

which would not only expand investment possibilities and increase entrepreneurial interest but would also support another series of equally complex shortcomings at the territorial level. As previously stated, the Financing Law approved in December last year, opened that spectrum.

In this sense, besides those already mentioned, the government included the possibility of developing rural public goods, climate change adaptation and risk management projects, payments for environmental services, information and communication technologies, productive, cultural and sports infrastructure.

On the other hand, during the first year of operation of the mechanism, there were no public health-related projects, because of the difficulties in the coordination for the use of the resources, the lack of clarity in the procedures and standards, as well as the difficulty in communicating with the entities in charge¹⁵.

Another core element associated to the sectors prioritized by the project bank is related to the need to be responsive to the territorial realities, which would lead to consider some flexibility in terms of the kind of works. An example of this may be seen in the municipalities that have connectivity deficiencies, but, in terms of road infrastructure, their needs are related to port construction and adaptation; or the cases where access to or improvement of water supply services is not related to water supply or sewage networks but rather to interventions to and adjustments of water supply sources.

Regarding the preparation and structuring of the projects that comprise the project bank, the need to strengthen institutional capacities at the national, regional and local levels was identified, since many of the projects submitted during the first year of execution of Works for Taxes were made by municipalities with shortcomings and weaknesses in their structuring¹⁶, which entails major risks for the businesses that, ultimately, are responsible for their development and execution. In practice, what happened was that

businesses privileged their own projects or, at best, those that were most advanced in their structuring, and not necessarily connected to the priorities of the municipality. Given the above, there are four main recommendations:

- To establish manuals and regulations that set responsibilities, roles and deadlines for the institutional actors that intervene in the process of making the projects feasible and incorporating them to the ZOMAC bank.
- To ensure that, when businesses invest resources in the structuring or maturing process (studies and designs), they are guaranteed that the projects will be eligible for implementation through the mechanism.
- To quickly move forward in structuring the projects needed to begin the implementation of the Action Plans for Regional Transformation (Planes de Acción para la Transformación Regional - PATR), bearing in mind that -for their construction- an extensive participation process was made available in the 170 PDET municipalities. If the ZOMAC bank is fed with these projects, it will not only have an increased legitimacy, but it will also respond to a rigorous territorial planning process that will contribute toward the implementation of the Peace Agreement.



¹⁵ Ver Anexo 2: Sistematización Mesas de Trabajo

¹⁶ De acuerdo a cifras de la ART, a corte de junio del 2018, de un total de 552 proyectos presentados susceptibles de ser financiados por el mecanismo, tan solo 27 cumplieron con los requisitos para ser incorporados al banco de proyectos ZOMAC, los demás se encuentran en algún tipo de ajuste bien sea técnico o documental.

- To ensure that the competent entities (National Planning Department - DNP, ministries and Territory Renovation Agency - ART) accompany the ZOMAC municipalities to ensure that they all have projects in the bank, to avoid the concentration of projects in a single region¹⁷.

2.3. State - Business - Citizens Relationship

Works for Taxes provides the chance to test an interesting model of a win-win relationship between the State, businesses and citizens. Its use benefits those businesses who identify a value in investing in the areas most affected by the conflict—in view of the nature and the area where they operate—, as well as those who find revenues for their reputation by investing in this kind of works, and those who seek to see their taxes materialized in specific works and public goods that benefit their stakeholder groups. The communities that see works materialized in their municipalities—and which ideally were able to actively participate in their prioritization— benefit too, as well as the State, by providing public goods more efficiently.

Nonetheless, this model faces several challenges. The first one is related to the way in which, in practice, the State is relating with the business community in the execution of the mechanism, since there seems to be a lack of synchronization in terms of timing and dynamics. A specific example is the open private tender process that businesses must carry out for the election of the project management and for the subscription of other contracts needed to execute the works. Businesses may have suitable suppliers, in line with their procurement standards, which would

enable administrative processes to be more free-flowing, thus optimizing the timing for the execution and ensuring increased control by the taxpayers on the implementation of the project.

Regarding the role of public entities as responsible parties for accompanying the implementation of the mechanism, clear counterparts with specific tasks need to be determined, since the relationship with these entities is currently undermined because responsibilities are continuously changing. It is also essential to unify responsibilities in one entity that may lead the process, articulate the different instances within the National Government, and has the technical capacity to solve problems associated to the quality in the structuring of the projects.

While the Works for Taxes mechanism also provides an opportunity to strengthen the positive relationship between the State, businesses and citizens in territories highly affected by the armed conflict, that implies the establishment, in the future, of a fluent dialogue space with the citizens and the local authorities for the selection, feasibility, implementation and follow-up process of the projects. Likewise, it is of utmost importance for the Government, better understanding the business community, to be able to take advantage of the private practices and the expertise of the businesses in the formulation and execution of infrastructure projects that favor the territorial transformation processes in the ZOMACs.

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¹⁷ See Annex 2: Systematization of the Working Groups

2.4. Other key operating elements to perfect the instrument

Based on the reforms introduced in the Financing Law, several issues mentioned in the dialogue space provided by the FIP regarding the nature of the resources are included, and the door is opened to solve concerns regarding the handling of contingencies, and the chances for technical modifications which may be sorted out with the regulation of the law.

Finally, the need to deepen the educational task of the mechanism in different fronts is identified:

- Create dialogue spaces where the lessons learned are discussed, to strengthen and perfect the operating model, which may be useful to improve and disseminate operating manuals for the businesses with the different stages of the process.
- Implement an outreach strategy at the regional level, aimed at involving businesses that respond to a diversity of operating sectors and territories. That task may be accompanied by the territorial Chambers of Commerce.
- Work with the mayors and governors' offices of the prioritized municipalities, for them to recognize the mechanism's strengths and opportunities and the need to have structured projects.
- Handle the expectations of the local authorities and communities in these territories regarding the actual impacts the mechanism may have on their municipalities. Acknowledge that this is just one among many other support and implementation instruments of the public peace policy.
- Strengthen the narrative in terms of the mechanism as an instrument that enables the articulation of the businesses around a national public policy purpose that seeks the transformation of areas historically isolated and left behind in the provision of public goods.

The need to deepen the educational task in areas such as working with mayors and governors' offices was identified, to acknowledge strengths and opportunities of the mechanism

3. Main changes made by the Financing Law to the Works for Taxes mechanism

In December 2018, the Financing Law (Law 1943 of 2018) was approved by the Congress of the Republic. This law introduces reforms to the country's tax system and makes changes to the Works for Taxes instrument. Some of them are:

- Based on the business owners' comments and criticisms, one of the most important changes made by the Financing Law to the Works for Taxes mechanism is allowing for the legal nature of the resources for the execution, as well as the subcontracting models, to match the legal nature of the taxpayer. This opens the door to the use of private contracting models and the flexibilization of the mechanism.
- The possibility of considering projects not necessarily located in the ZOMACs is introduced. The above, provided they are of strategic importance for the economic and social reactivation of one or more ZOMACs.



**Discussions were held
in the working groups
about the changes needed
to perfect the mechanism**

- As previously stated, the Financing Law expanded the sectors where Works for Taxes projects may be developed. The following are some of the new sectors: rural public goods; climate change adaptation and risk management; payments for environmental services; information and communication technologies; productive infrastructure; cultural infrastructure, and sports infrastructure.
- In its article 71, the Financing Law states that investment commitments acquired in the Works for Taxes agreements may not exceed 30% of the taxpayer's net book equity, for which purpose the equity of the immediately preceding year will be considered.
- In numeral 5 of article 71, the figure of Territory Renovation Titles (Títulos para la Renovación del Territorio) - TRTs is created, as a remuneration instrument upon the effective execution of the Works for Taxes project. Said titles will be negotiable. TRTs may be used to pay up to 50% of the income tax due.
- The chance is opened for legal entities with outstanding income tax debts to pay them with Territory Renovation Titles (TRTs).



The Financing Law expanded the sectors where Works for Taxes projects may be developed, including among them, for instance, rural public goods, payments for environmental services, and productive infrastructure



4. A new model: Works for Royalties

On December 6, Congress approved the 2019 - 2020 Biennial Royalty Budget (Presupuesto Biental de Regalías) amounting to 24.2 trillion pesos (final text: Senate 167 of 2018 - gazette 1123 of 2018). In article 52, it creates the "Works for Royalties" instrument, a mechanism that the new government has been strongly promoting which allows businesses to execute social investment projects as part of the payment corresponding to royalties. While the inspiration for this instrument was the Works for Taxes mechanism, it does not have a spirit aimed at the transformation of the areas most affected by the conflict, and therefore no reference is made to ZOMAC or PDET municipalities (it is worth noting that its regulation is still pending). These are some of the key items this mechanism would have:

- Businesses engaged in the exploitation of non-renewable natural resources, and who
- have earned gross revenues exceeding 33,610 UVTs (Tax Value Units) during the previous tax year (the same is true in Works for Taxes), could participate.
- Public utility infrastructure projects, tertiary roads, agricultural and productive projects are prioritized.
- The business shall deposit the amount for the approved project in an escrow account (trust fund). The deposit would be made on account of the royalty payment. If the project is not executed in its entirety, the company must pay the total amount of the royalties it should have paid.
- The government has six months to regulate this law.



During the working session there was an exchange of experiences and lessons learned throughout this first year of implementation of the mechanism

5. FIP's view of the mechanism

FIP believes that the Works for Taxes mechanism is a great opportunity for public-private articulation, which contributes to long term purposes such as territorial transformation and peace building. We appreciate Colombian business community's optimism and willingness to use it, and we highlight its performance over the first year of implementation, since it is becoming involved in specific actions in territories and communities with a weak State presence, through a shared value scheme.

This kind of public policy initiatives and tools are one more step toward gaining a better understanding of the public and the private spheres, since through dialogue and by understanding the interests and incentives of both sides it will be possible to jointly work toward superior purposes that, without a doubt, will boost the country's development.

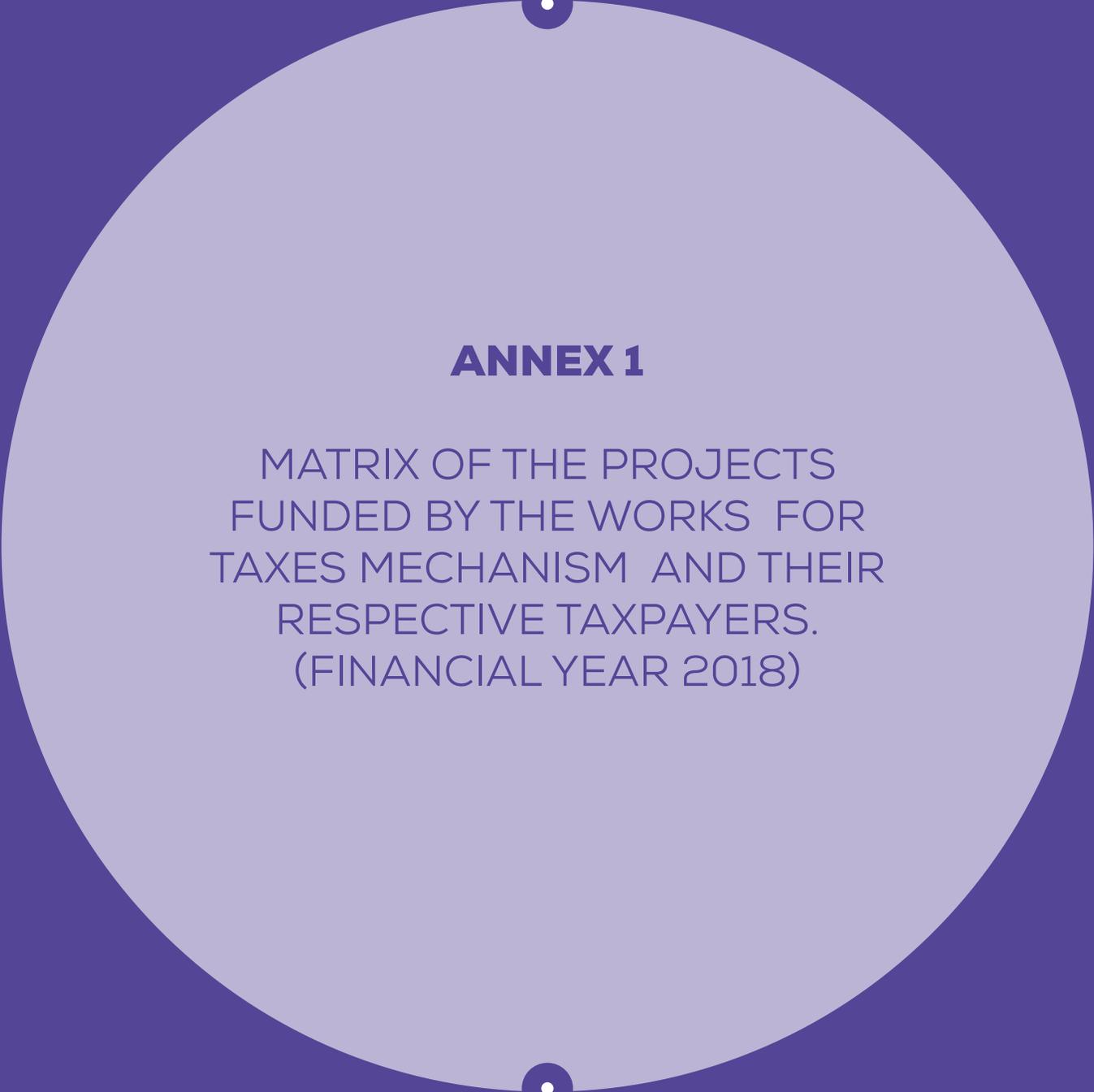
FIP calls on the interested businesses, as well as on the national and local governments, to take advantage of this opportunity to strengthen trust relationships between State, business sector and citizens. In its first cycle, the Works for Taxes mechanism is

moving forward at a good pace, but its success and the possibility of ensuring its sustainability depend on adjusting the process, paying particular attention to the prioritization and the structuring of the projects, and involving the communities in the implementation of the works to create citizen oversight processes and maintain a fluent dialogue between the taxpayers and the local governments.

Defining the long term purpose of the mechanism is also urgent. The National Government must set the goal it seeks with this kind of tax mechanisms. If this instrument is expected to have an impact on the territorial transformation of the areas most affected by the conflict, corrective measures will need to be suggested, such as some of the ones mentioned in this document, to prevent the dilution of the efforts of the businesses and the institutions in minor, isolated works; the regulation of the new financing law becomes an opportunity for such purpose.



During the working session, Fundación Ideas para la Paz collected the main concerns and suggestions for perfecting the Works for Taxes Mechanism



ANNEX 1

MATRIX OF THE PROJECTS
FUNDED BY THE WORKS FOR
TAXES MECHANISM AND THEIR
RESPECTIVE TAXPAYERS.
(FINANCIAL YEAR 2018)

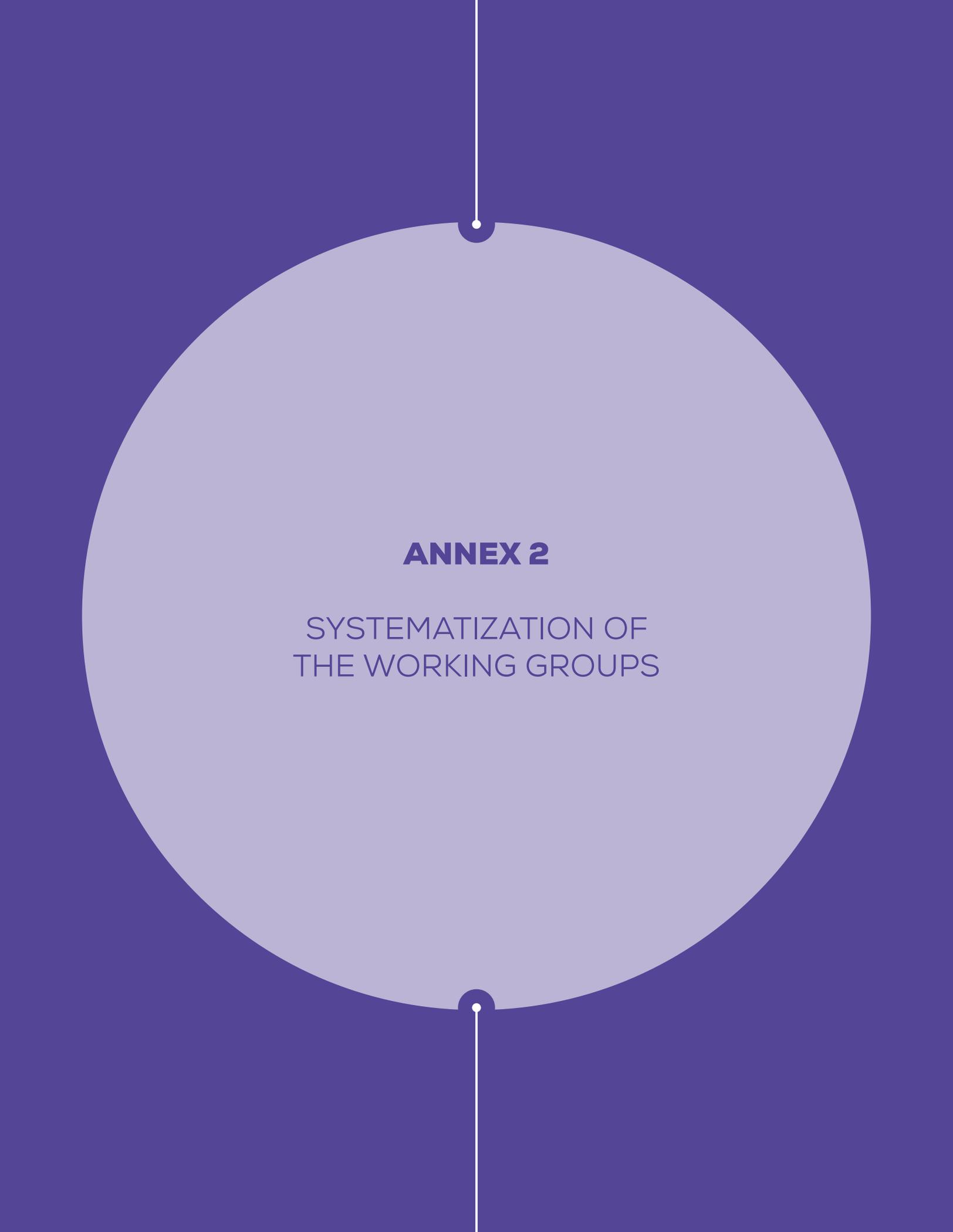
6. Annexes

6.1. Matrix of the projects funded by the Works for Taxes mechanism and their respective taxpayers (Financial year 2018)

#	NAME	MUN.	STATE	AMOUNT	TAXPAYER	SECTOR
1	AQUEDUCT SYSTEM OPTIMIZATION	Apartadó	Antioquia	COP\$ 9,114	Empresa de Energía del Quindío S.A. E.S.P.	Drinking water and sewage
					Empresas Públicas de Medellín E.S.P.	
					Aguas Regionales EMP S.A E.S.P.	
2	LA LUCILA II FLOOR STORAGE TANK AND ACCESSORY WORKS IN THE AQUEDUCT SYSTEM FOR SECTORS 1 AND 2	Turbo	Antioquia	COP\$ 12,702	Empresas Públicas de Medellín E.S.P.	Drinking water and sewage
3	CONSTRUCTION OF EXPANSION, CONSTRUCTION OF SEWAGE NETWORK FOR THE OBRERO NEIGHBORHOOD	Turbo	Antioquia	COP\$ 6,670	Empresas Públicas de Medellín E.S.P. Aguas Regionales EMP S.A E.S.P.	Drinking water and sewage
4	CONSTRUCTION OF THE MAIN CONDUCTION NETWORK OF THE TREATMENT PLANT - CITADEL TANK - SECOND STRETCH	Tumaco	Nariño	COP\$ 8,710	Compañía Energética del Tolima S.A E.S.P. Empresa de Energía de Pereira S.A. E.S.P. Consortio Aseo Capital S.A E.S.P. Servicios Generales S.A.E.S.P. Soacha Ciudad Luz S.A E.S.P. Aseo Internacional S.A.E.S.P.	Drinking water and sewage
5	EXPANSION OF THE PRODUCTION CAPACITY OF THE DRINKING WATER TREATMENT PLANT OF THE AQUEDUCT SYSTEM	Riohacha	Guajira	COP\$ 5,680	Carbones del Cerrejón Ltda.	Drinking water and sewage
6	DRINKING WATER DISTRIBUTION MODEL FOR NATIVE WAYUU COMMUNITIES OF THE MAICAO DISPERSE RURAL ZONE	Maicao	Guajira	COP\$ 4,099	Intercolombia S.A E.S.P.	Drinking water and sewage

#	NAME	MUN.	STATE	AMOUNT	TAXPAYER	SECTOR
7	CONSTRUCTION OF THE SECOND 34.5 KV CIRCUIT, TULUNI - PLANADAS - RIOBLANCO, TOLIMA	Planadas y Rioblanco	Tolima	COP\$ 11,466	Compañía Energética del Tolima S.A E.S.P.	Energy
8	IMPROVEMENT THROUGH THE CONSTRUCTION OF THE TREAD PLATE FOR TERTIARY ROADS OF LA GLORIA, CESAR	La Gloria	Cesar	COP\$ 4,742	ECOPETROL S.A.	Road infrastructure
9	REHABILITATION OF THE TAME - COROCORO (6605), COROCORO . ARAUCA (6606) ROAD	Tame	Arauca	COP\$ 27,657	ECOPETROL S.A.	Road infrastructure
10	ROAD IMPROVEMENT WITH ASPHALT PAVEMENT OF THE SAN PEDROR - ARIZONA, ROAD, PUERTO CAICEDO, PUTUMAYO	Puerto Caicedo	Putumayo	COP\$ 13,018	ECOPETROL S.A	Road infrastructure
11	IMPROVEMENT OF THE PAUJIL - CARTAGENA DEL CHAIRÁ ROAD	El Paujil, Cartagena del Chairá	Caquetá	COP\$ 35,647	ECOPETROL S.A.	Road infrastructure
12	CONSTRUCTION AND PAVEMENT OF 17TH STREET BETWEEN THE NATIONAL ROAD AND THE OLYMPIC VILLAGE IN SAN MARTÍN, META	San Martin	Meta	COP\$ 2,546	ECOPETROL S.A.	Road infrastructure
13	PAVING OF THE ESCARRALAO - EL JOBO - PALIZADAS - EL BAGRE ROAD, ANTIOQUIA	El Bagre	Antioquia	COP\$ 18,650	MINEROS S.A.	Road infrastructure
14	SUÁREZ - MINDALÁ ROAD REHABILITATION VIA TREAD PLATE, SUÁREZ, CAUCA	Suarez	Cauca	COP\$ 2,958	Empresa de Energía del Pacífico S.A E.S.P.	Road infrastructure
15	IMPROVEMENT OF TERTIARY ROADS IN COCORNÁ, ANTIOQUIA	Cocorná	Antioquia	COP\$ 33,700	Empresa de Energía del Quindío S.A. E.S.P. Empresas Públicas de Medellín E.S.P.	Road infrastructure
16	IMPROVEMENT AND PAVING WITH TSD OF THE ROAD LA CEIBA TOWNSHIP - CHALÁN URBAN CENTER, SUCRE	Chalán	Sucree	COP\$ 3,158	Ingeniería, Suministros, Montajes y Construcciones S.A. Herrajes Andina S.A.S. Distribuciones Eléctricas de la Sabana S.A. DISELECSA C.I. Metales La Unión S.A.S	Road infrastructure

#	NOMBRE	M/PIO	DEPTO	VALOR	CONTRIBUYENTE	SECTOR
17	GREEN CLASSROOM CONSTRUCTION FOR LA LIBERTAD RURAL EDUCATIONAL INSTITUTION IN PUERTO ASÍS, PUTUMAYO	Puerto Asís	Putumayo	COP\$ 1,125	Dow Química de Colombia S.A.	Public Education
18	CONSTRUCTION OF NEW MAIN SITE FOR LA DANTA EDUCATIONAL INSTITUTION - JERUSALÉN SITE, MUNICIPALITY OF SONSON, ANTIOQUIA	Sonsón	Antioquia	COP\$ 6,471	Compañía Colombiana de Cerámica S.A.S. Locería Colombiana S.A.S Suministros de Colombia S.A.S. Empresa de Refractarios Colombianos S.A.S. Corlanc S.A.S. Corona Industrial S.A.S	Public Education
19	CLASSROOM EQUIPMENT FOR THE EDUCATIONAL INSTITUTIONS IN THE RURAL AREA OF TAME, ARAUCA	Tame	Arauca	COP\$ 1,022	Parex Verano Ltda.	Public Education
20	TECHNOLOGICAL EQUIPMENT TO IMPROVE EDUCATIONAL QUALITY IN SANTA ISABEL, TOLIMA	Santa Isabel	Tolima	COP\$ 290	Empresarios de Apuestas permanentes del Tolima S.A - SEAPTO	Public Education
21	SCHOOL FURNITURE EQUIPMENT FOR EDUCATIONAL SITES OF THE MUNICIPALITY OF TUMACO, NARIÑO			COP\$ 7,253	ECOPETROL S.A	Public Education
22	FURNITURE EQUIPMENT FOR EDUCATIONAL INSTITUTIONS AND ASSOCIATED CENTERS IN BARBACOAS, NARIÑO	Barbacoas	Nariño	COP\$ 3,322	ECOPETROL S.A	Public Education
23	EQUIPMENT FOR OFFICIAL EDUCATIONAL FACILITIES IN BARAYÁ AND TELLO, HUILA	Barayá - Tello	Huila	\$613	EMGESA S.A. E.S.P.	Public Education



ANNEX 2

SYSTEMATIZATION OF THE WORKING GROUPS

6.2. Systematization of the Working Groups

Report of the Working Session on Works for Taxes, organized by the Fundación Ideas para la Paz on September 18, 2018, in Bogotá

This document contains the reports from each one of the working tables organized during the working session carried out by the Fundación Ideas para la Paz, with the support of the Swedish Embassy. The purpose of the working session was to collect inputs about the lessons learned, challenges and opportunities of the Works for Taxes mechanism. This included the participation of the businesses involved during the first year of implementation of the mechanism.

Following are the reports from six working tables, which were arranged under the following structure:

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict.
2. Focalization / prioritization of municipalities for the use of the mechanism.
3. Sectors of the projects that comprise the project bank.
4. Business - State - Citizens Relationship.
5. Incentives and benefits for the business sector.
6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works).

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project bank.
2. Establishment of escrow accounts (trust funds).
3. Work audits and oversight (supervision).
4. Project risks.
5. Institutional structure responsible for and accompanying the implementation of the mechanism.
6. Additional challenges.

Working Table No. 1

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict.

Strengths:

- The businesses that were part of the working table believe that the Works for Taxes scheme is aligned with the corporate policy on the surroundings of the companies present therein. Channeling their own resources toward those works is seen as a new source to ensure the continuity of socio-environmental investment efforts currently under way.

Weaknesses:

- Regarding the underlying purpose of the Works for Taxes mechanism in terms of closing in the territories, it was said that “*in its first version*”, it is difficult to believe that the mechanism satisfies the purpose of closing gaps and driving development. From their viewpoint, “*a work will not close the gaps*”. They believe that Works for Taxes should be more strategic in its purpose: in terms of the projects that are carried out and their impact. This is exacerbated by the dispersion of the projects and the lack of articulation of the Government. If the Government’s focus is on the PDETs and not on the ZOMACs in general, it will have little impact.
- As an example of the above, the case of the roads was described: for these projects, they only used some specific stretches as Works for Taxes. It is hard to believe that 3-4 km of paved roads may substantially transform the situation of rural roads in the territories affected by the armed conflict.
- The participants considered that these projects are physical works that fail to address a key issue such as employment, and that they are not works that directly change the life of the community, since they

do not create income opportunities, etc. In this sense, they are not considered substantial impacts. Likewise, they don't believe that this mechanism will serve that purpose.

2. Focalization / prioritization of municipalities for the use of the mechanism

Strengths:

- They agree in suggesting that the mechanism should continue to be focused on the areas most affected by the conflict and/or violence. That should still be the basic criterion, over and above increasing or decreasing the number of municipalities. They stated the importance of an 100% match between the PDET municipalities and the ZOMAC municipalities (out of the 170 PDET municipalities, 167 are also part of the group of ZOMAC municipalities, since Santa Marta, Valledupar and Ciénaga are excluded).

3. Sectors of the projects that comprise the project bank

Strengths:

- The participants believe the sectors are pertinent. In some instances, they face housing needs, reason for which this infrastructure segment could be considered later on.
- One of the participants stated that projects relate to information technologies could be considered, such as those ICTs with educational purposes

Weaknesses:

- In this regard, the participants stated that the issue of sustainability is still questionable. That is, they are concerned by the fact that they may build the infrastructure but then the municipalities or public authorities lack the resources for their maintenance, equipment or other needs.

4. Business - State - Citizens Relationship

Strengths:

- It was stated that the mechanism has enabled strengthening the relationships with the national government and the ministries.

Weaknesses:

- During the implementation process, it became necessary for the businesses to help the public entities familiarize themselves with the figure of the PDETs and other associated regulations, since they were not aware of the decrees and contentions. This educational task was key, because the ministries were also responsible for providing the technical endorsement for the projects and establishing the audit parameters.
- Responsibility regarding project feasibility should be shared. Today, the State entity decides on the feasibility of the projects, but then leaves the businesses executing them and later that same entity will receive them. Some responsibility on the part of the public entity in technical matters is missing (the public entity has given the technical endorsement and the business has committed itself to execute it, but the formulation of the project is not suitable in terms of timing and/or budget).

5. Incentives and benefits for the business sector

Strengths:

- Since it's not truly a tax exemption or deduction, the businesses at the working table agreed in pointing out that what motivates them to participate in the mechanism is "*sheer heart*", since they do it within the framework of their corporate social responsibility. They stated that it's a matter of conviction and that, given the willingness of the upper management, tax benefits take second place.
- Regarding the benefits, at least initially, they believe these are intangible: reputation, brand positioning, and improving their relationship with the communities.

Weaknesses:

- Regardless of the above, they also acknowledged that, precisely because it's not a tax benefit, it's difficult to convince some instances of the organization, such as the financial area.

6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works).

Weaknesses:

- Emphasis was made on the fact that municipalities are quite weak in structuring projects, in terms of costs and time line, among others.

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project bank

- Improve the technical feasibility process. The mechanism was not thought for this. The territorial entity sends it in General Adjusted Methodology (MGA, for its acronym in Spanish) to the ART, the latter applies a checklist to it, returns it, and then the territorial entity doesn't know that the project has been returned with comments. Therefore, there should be greater traceability and improved efficiency in the ART - municipality communication, which is the starting point for the whole process.

2. Establishment of escrow accounts (trust funds)

- The escrow (trust fund) is just an administrator of the means and not of the results, and it does not have a technical component. Consequently, its commitment is in terms of management and not of results. This may be unfavorable for the project execution itself.
- On the other hand, the same fiduciary company (trust fund) has 20 of the 25 projects that were awarded. Hence, today it is overwhelmed in terms of its ability to respond to all the businesses.

3. Work audits and oversight (supervision)

- Work audits should be in place, but they would expect that the ministry in charge should assume them. They feel that it's awkward for the taxpayer to pay for the work audit, but the auditor reports to the ministry.
- Oversight (supervision) standards have not been configured for the Works for Taxes projects.

4. Project risks

- One of the risks identified is related to the payment for the technical evaluation of the project.
- Taxpayers should have the chance to have access to the information and not be compelled to blindly follow the feasibility determined by the ministry. It is essential for taxpayers not to state their interest without having reviewed the project's costs.
- Another issue that affects the impact and magnitude of the works is that the appropriation to be allocated by the nation is not known in advance. Since the appropriation is unknown, businesses are cautious and therefore refrain from making overly ambitious proposals. The consequence of the above is that they tend to end up being atomized projects. Ultimately, "*the appropriation does not enable considering macro-projects*". CONFIS should be known as of now so as to determine what to do in advance and thus open the door to more strategic works.

5. Institutional structure responsible for and accompanying the implementation of the mechanism

- The participants believe that the degree in which the first generation of Works for Taxes was welcome overflows any institutional capacity. By failing to anticipate that so many businesses were going to submit that many projects, there has hardly been accompaniment in the implementation of the mechanism.
- It was stated that many of the businesses currently engaged in Works for Taxes are facing delay and cost overrun issues because they failed to review the project time lines and budgets in the municipal project banks, and these were approved as they were by the ministries. However, at the time of executing the projects, they have found that the time lines and budgets do not match the reality, and min-

istries don't feel and/or have any responsibility whatsoever in this regard, despite having endorsed the projects. Ultimately, the whole responsibility falls on the taxpayer and there is no balance with the State in terms of responsibilities.

6. Additional challenges

- It was stated at the working table that, in this first generation of Works for Taxes, community participation was low, something that could be strengthened in future processes.
- • Allow changes in the budget, not only in the time line, since both are related.
- • Regarding the use of contingencies (currently it is just 10% of the total value of the works). There are works that are more complex, and consequently the contingency percentage should be associated to the complexity of the project (not a fixed 10%).
- • Admit the use of money from the following tax year if the business needs more liquidity now.
- • Regarding the topic of “private open tender”: doubts about this figure are still present. Eventually it should be removed, leaving a fully private regime.
- • Open the chance to engage in larger and higher impact projects.
- • Simplifying the formalities is a key issue. For example, the competition, tender, etc. part of the process is quite complex. Likewise, there are timing matters in the decree that don't match reality; for example, the contracting process for the escrow account (trust fund).

Working Table No. 2

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict

Strengths:

- The relationship of the mechanism with a peace policy should be preserved because this enables the process of directing resources to weak and remote municipalities.

Weaknesses:

- The appropriations established are very small. To fulfill its peace building role, the appropriations need to be expanded, since otherwise a true transformation of the territories with large scale works is not achieved, and their impact continues to be very low and disaggregated.

2. Focalization / prioritization of municipalities for the use of the mechanism

Strengths:

- It was stated at the working table that it is important not to increase the number of prioritized municipalities, because it would make it increasingly difficult to ensure that the municipalities most affected by the conflict have access to the resources that may enable their transformation.
- The ZOMAC prioritization truly enables directing resources to the most affected municipalities.
- On the other hand, we don't see the feasibility of considering a larger reduction. If they would be the 170 PDET municipalities, the challenge would be that they don't have any kind of market behind them and very few incentives for getting private parties involved.

Weaknesses:

- An ongoing challenge is determining how to ensure that the most affected municipalities are reached by the mechanism.

3. Business - State - Citizens Relationship

Weaknesses:

- There are difficulties in the communication between the taxpayer and the public entities in charge.
- Regarding project execution, there is an evident mismatch in the paces, since the private businesses are interested in completing the works in the shortest time possible, while public institutions continue working at their own pace.
- When there are gaps in the procedures, the timing for the State to solve these gaps is unclear.

4. Incentives and benefits for the business sector

Strengths:

- The Works for Taxes mechanism is appealing for those businesses that are already interested in certain works, either because of the need for the works in their operation, reputation, image or brand positioning, and/or relationship with the communities and authorities in certain areas.

5. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works).

Strengths:

- The importance of the projects in the Project Bank, because of their legitimacy and relationship with authorities and communities.

Weaknesses:

- Regarding timing issues, delays have been experienced in the project structuring, preparation and feasibility steps.
- While the legitimacy of the projects in the bank is acknowledged, there is a very high risk in selecting one of them, considering that the project structuring process is not recognized, thus implying that the process must begin from scratch, incurring in new costs.

II. Improvements to the mechanism

1. Work audits and oversight (supervision)

- Regarding management, audit and escrow (trust fund) instances, they are not prepared, and their role is unclear. There is no clarity in terms of who instructs the guidelines, whether they come from the public entities or from the taxpayer.
- Consideration should be given to making the competent entity responsible for appointing the work audit.

2. Project risks

- Some of the risks identified herein are related to cost overruns in the implemented projects, since costs incurred by the private party that are not recognized in the structuring phase of the projects were found, and in the end determining which structuring costs are recognized and which are not ends up subject to the discretion of the public entity.
- Another issue is related to force majeure cases, particularly in the ZOMACs which, by definition, are the most remote and most vulnerable areas to external factors beyond the control of the private business, resulting in delays in the time line and therefore in cost overruns for the taxpayer.
- On the other hand, corruption risks may be faced in the execution phase, resulting in severe consequences since the project is already a committed work.

3. Institutional structure responsible for and accompanying the implementation of the mechanism

- There is no clarity regarding the roles in the entities responsible for the accompaniment. There is a deterioration in the relationship with the different entities that continuously change and become involved in different phases of the process. There should be one single counterpart for the feasibility process..

4. Additional challenges

- It is necessary to clarify, both in the mechanism and between the parties, that these are not public works; they are private investments which should adjust to the timing and the procedures of the private parties.
- Modality 2 may be improved by restructuring the timing and/or considering the scheme of discount revaluation and making it negotiable.
- There is a need to create greater incentives for the businesses with credit balances.
- On the other hand, the feasibility of small projects should be ensured in relation to the costs they imply.

- To achieve a true territorial transformation, other complementary mechanisms could be considered, such as the Works for Royalties arrangement, which would make it possible to reach other municipalities.
- An educational process is required to explain how Works for Taxes projects with private resources are valued for the entities involved.
- Working with the projects prioritized by the mayors results in major challenges and risks, since great expectations may be created and there could be extortion cases. It is also necessary to take the communities into account.

Working Table No. 3

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict

Strengths:

- Thoughts on this item were focused on stating that the mechanism is useful to improve the conditions of settings affected by violence. Instead of finding reasons to implement the mechanism, the invitation made by the members of the working table was to reflect on Why not do it? They all considered that in everyday life it turns into a process that demands more time and resources; however, it is worthwhile to become involved in this kind of initiatives that are going to improve the quality of life of the people and the business' operation.
- The mechanism works because of the acceptance of the communities.
- The mechanism allows communities to organize themselves to embrace the works carried out in the municipalities.
- Projects are aligned with territorial stakes.
- The mechanism allows businesses to reflect on a vision on how to build country and contribute to the development proposals coming from the territories..

Weaknesses:

- A lack of articulation is seen between the prioritized projects and the PDET processes carried out in the territories.

2. Focalization / prioritization of municipalities for the use of the mechanism

Strengths:

- Prioritized municipalities are those considered as the most affected by conflict; there is no need to expand the focalization.

Weaknesses:

- There are public order risks in areas where the businesses do not have their operation and submit projects

3. Sectors of the projects that comprise the project bank

Strengths:

- The prioritization of tertiary roads is essential because of the huge need for connection among the territories.
- Initially, the prioritized sectors are those that require greater attention and priority based on the territorial needs.
- Sectors prioritized by the mechanism are those that are necessary for the country's development.

Weaknesses:

- Thoughts on whether they are the sectors that should be prioritized are more related to which are the State entities that truly have a standard to execute projects. For example, the health sector is one of the weakest, in terms of the clarity about procedures and standards. This does not allow businesses to easily get involved in projects.

4. Business - State - Citizens Relationship

Strengths:

- This mechanism has enabled the development of valuable, trusting relationships in the territory (for example, building bridges between

the state, township and municipal levels; or going beyond the businesses area of influence).

- On the other hand, contributions to the territory's stakes have been enabled, as well as joining efforts that bring out the best of each of the parties involved (e.g., on education topics, administrations have many stakes, but lack the necessary resources). That is where businesses may articulate and hold articulate conversations with the public sector to benefit the community.
- The mechanism has resulted in joint efforts, understanding that everything adds up.
- The mechanism allows and encourages community involvement.

5. Incentives and benefits for the business sector

Strengths:

- Through the mechanism, with their works, taxpayers may compensate the impacts created by their operation.
- Beyond highlighting the incentives and benefits there may be for the business sector, the question is, why not participate in the mechanism?

6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works)

Strengths:

- The ART is willing and ready to accompany the project presentation process.

Weaknesses:

- There should be more clarity regarding the structuring of the projects (documentation and technical requirements). Many projects were not approved because they were not clear in terms of structuring.

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project bank

- The Decree or the procedure should clearly state that once a project is submitted it is shielded, thus allowing the taxpayer to complete the submission of the requirements to close the application. This, to prevent another taxpayer from stepping in, submitting the requirements and thus leading to make the first taxpayer lose the chance to execute the project. One option could be to lock the project once a process is started, to ensure priority in the application.

2. Establishment of escrow accounts (trust funds)

- It is important to prepare the fiduciary companies for this process.
- Surely enough, these companies also have valuable lessons to be considered that may be part of the learning process of this first stage.
- Clarify the duties of the fiduciary company in the decree. The decree is not specific regarding the duties the fiduciary company should have, which has led to a lack of clarity on how to exercise their duties and, who should receive the project's invoices? On many occasions, this has hampered the process.
- Specify the invoicing responsibility the fiduciary company should have.
- In some cases, the fiduciary company made the decision regarding the audit of the works, without engaging in a clear procedure for the taxpayer. In other cases, tenders were opened by the fiduciary company to elect the auditor for the works.
- In some cases, the fact that project management has taken the time to accompany the technical team of the fiduciary company to streamline the process is highlighted.

3. Project risks

- A review of the project risks is suggested, since unforeseen circumstances and force majeure cases are considered, but there are public order risks that should also be considered. Businesses call for a case by case revision.

- On the other hand, there are environmental risks which, despite being foreseeable, may result in changes in the execution time line which may result in cost overruns.
- There is the need to determine which risks may be shared with the State, and they are not only the unforeseen circumstances or force majeure cases.
- Clarity is needed regarding how and who bears the risks when the studies were not carried out by the taxpayer. Such is the case when the selection from the project bank is made, where the projects are already structured.

4. Institutional structure responsible for and accompanying the implementation of the mechanism

- All the participants in the working table stated they have had a smooth relationship with the ART.

5. Additional challenges

- Businesses that have participated during the first year of implementation of the mechanism clearly understand that the maintenance of the infrastructure of the works is handed over to the public authorities. However, it is important to make it fully clear, because in many cases maintenance may be seen as a responsibility of the taxpayer.
- A proposal was made whereby the businesses may be the project managers to ensure the success of the works.
- A suggestion was made to include a higher amount for contingencies in the budget.
- Regarding procurement matters, there should be more freedom for the taxpayer to choose its suppliers under the procurement transparency procedure in use in the companies.
- It is still unclear how this mechanism is articulated with the PDETs. For the time being, the latter are seen as inarticulate and underfunded processes.
- On the other hand, it is important to clarify how credit balances will be handled.

Working Table No. 4

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict

Strengths:

- Through the mechanism, businesses may provide public goods to the municipalities most affected by the conflict, to close the gap between rural and urban.
- This also enables redistributing the way in which businesses create value and take it to areas where there are specific needs.
- Tax allocations through this mechanism allows for people and businesses to have the certainty that the resources are being invested.
- The mechanism should not only go along with the peace policy, but also with the development plan of each of the municipalities where the investments will be made.
- The mechanism could also be a form of PPP (Public Private Partnership). This would lay the foundations for territorial development, which could contribute to peace, and even further beyond. This extension toward a broader scope should not be immediate, for it to be effective. It is important to allow it to consolidate itself in the peace context, as it was envisioned, but in the future see if it could be extended.

Weaknesses:

- Guarantees are missing in terms of security to develop the projects.
- There is an oversizing of the mechanism; namely, false expectations have been created by the government, which have affected the reputation of the businesses because the communities are expecting too much from them.

2. Focalization / prioritization of municipalities for the use of the mechanism

Strengths:

- The recommendation is not to extend the mechanism until it is not done properly with the municipalities that have already been prioritized.
- The presence of businesses in the territory, Unsatisfied Basic Needs (UBN) and the impact of the conflict should be considered for the prioritization of the territories. Some of these criteria were already considered for the initial prioritization.

Weaknesses:

- Insufficient weight was afforded to the criterion related to the incidence of the conflict.
- Some businesses don't have any motivations to develop projects out of their areas of operation, reason for which Works for Taxes should be understood as a mechanism that is added to a whole.
- The criteria chosen to select the areas should be reevaluated.

3. Sectors of the projects that comprise the project bank

Weaknesses:

- The selected sectors fall short in terms of the actual investments some businesses could make.
- Consideration should be given to the fact that the mechanism is something new and it's too soon to demand results in terms of territories and sectors.
- No projects have been developed in the public health sector, since it has not been possible to coordinate the use of the resources and other logistics topics.
- Over time, cultural and sports topics could be included, since these contribute to foster a favorable environment for the creation of havens of peace. These sectors may also offer incentives to medium-sized businesses, with projects that are not too costly.

4. Business - State - Citizens Relationship

Strengths:

- The mechanism has enabled the communities and the institutional framework to work together.
- Likewise, it has contributed to caring for the local government - community - business relationship. This led to calls for the development of other kinds of projects.

Weaknesses:

- Handling of false expectations which may be created in the community and may affect the businesses.
- The whole mechanism is overly centralized, very much in charge of national level entities. Projects should come from the territory, but the territories are the players with the least decision-making power.

5. Incentives and benefits for the business sector

Weaknesses:

- No incentives are in place for businesses to work in other areas outside of their area of influence.

6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works)

Weaknesses:

- Flexibility regarding project budgets is low. The excessive rigidity of the mechanism should be eliminated to allow for a better management of project contingencies.
- Project sustainability is not a requirement at the time of its approval. Sustainability depends on the territorial entities, but on many occasions that will not be met.

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project bank

- Strengthen the capacities and knowledge of the businesses, local governments and communities with regard to the operation and the purposes of the Works for Taxes mechanism. For this purpose, the private party may help with knowledge transfer, not only about the mechanism but also regarding project formulation.
- On the other hand, it is highlighted that the project bank should be articulated with the development plans of the municipalities.
- A suggestion was made to conduct a survey with the communities to determine whether that project bank actually addresses the needs of the territories.

2. Work audits and oversight (supervision)

- Provide citizen oversight instruments to the communities, for them to be additional third party guarantors of the process. Promote citizen oversight instances by the institutional framework.

3. General challenges

- When the nature of the figure is reviewed and the topics regarding those risks that can and those that cannot be controlled are analyzed, the suggestion is to make the mechanism be more flexible in regard to the budget allocated by the business to properly manage the project's contingencies.
- Project management should be in charge of selecting the contractors.

Working Table No. 5

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict.

Strengths:

- Participants positively value the mechanism as an instrument that contributes to peace. The mechanism has allowed reaching areas which were previously left behind, and thus contribute to the transformation of the territories.
- It is believed that the Works for Taxes mechanism is efficient against corruption, given the rigorousness in its follow-up and control.
- Through the mechanism, the efficiency of public spending is evidenced, and quality standards are respected. On the other hand, political intermediation is ended, and the business directly manages the investment of its tax, contributing to improve the population's wellbeing.

2. Focalization / prioritization of municipalities for the use of the mechanism

Weaknesses:

- The suggestion is to expand the mechanism to reach more areas of extreme poverty, and not only those affected by the armed conflict.
- Another proposal is to establish focal points covering 5-year periods in areas that are changing, with additional tax incentives.

3. Sectors of the projects that comprise the project bank

Weaknesses:

- There are very few prioritized sectors. The recommendation is not to limit the project categories currently in place; any investments that benefit the communities and contribute to the common good should apply, e.g. environmental, cultural and ICT projects, among others.

4. Business - State - Citizens Relationship

Strengths:

- The mechanism is useful for the State to learn to be more diligent and quicker in the execution of its projects, following the example of private business. Given the above, citizen trust in the State will be reinforced.
- The mechanism fosters an increased connection between the businesses and the State.

5. Incentives and benefits for the business sector

Strengths:

- Businesses present at the working table agree in stating that one of the benefits is focused on improving the company's image before the community, considering that many relationships between these two counterparts have been conflictive.

6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works).

Weaknesses:

- The Decree has several gaps.
- The need for the government to create guides for the proper implementation of the mechanism is highlighted, as well as the need to specify its scopes.
- Opening the bank to new proposals is needed (currently, they don't meet the requirements, and this deters innovative projects and new businesses).
- There is insufficient knowledge about the needs of the territory.

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project banks

- The clarity existing between the two banks -the project bank and the initiative bank- should be improved.
- Likewise, the quality of the projects included in the bank should be improved, since some of them are not ready for their implementation.

2. Work audits and oversight (supervision)

- The procedure needs to be simplified. Work audits should be dependent on the taxpayer.

3. Project risks

- Excessive penalties are set for the taxpayer; penalties are not that high for the other parties.

4. Institutional structure responsible for and accompanying the implementation of the mechanism

- The low institutional capacity, both of the ministries in charge and of the ART, is highlighted. These entities have very small teams. Strengthening the teams for the implementation of the mechanism is urgent.
- The responsible entities should get past the good will phase and steer businesses via clear methodologies and guidelines.

5. Additional challenges

- Ensure the solution of the current lack of clarity regarding the nature of the resources: are they public or private? They should be considered private resources until the public works are delivered.
- The recommendation is to allow businesses to unionize (establish trade unions) to enable joint project execution.
- Make a better use of the know-how of the businesses for project structuring and implementation.
- Address the topic of cost overruns and hidden costs that are not recognized in the mechanism.

- Give businesses greater decision-making power. Businesses are left without a voice regarding decisions such as, for instance, hiring managers and contractors.

Working Table No. 6

I. Strengths and weaknesses

1. Contribution of the mechanism to peace building and to the transformation of the territories affected by the armed conflict

Strengths:

- The members of the working table state that the mechanism is an excellent tool for country building. The mechanism contributes to close gaps between capital cities and the other regions, as well as to begin the transformations in the territories most affected by the conflict.

2. Focalization / prioritization of municipalities for the use of the mechanism

Strengths:

- Some members of the working table stated that the prioritization of the municipalities most affected by the conflict should be preserved, but it was even suggested to reduce it to the municipalities where there has been the intervention of Development Plans with a Territorial Approach (PDETs).

Weaknesses:

- During the first year of implementation, approximately only 8% of the municipalities were impacted. Given the above, prioritization should be reduced to the ZOMACs with greater limits, and when this mechanism is strong enough, in 10 or 15 years, the number of municipalities may be increased.
- Other members of the working table stated that the prioritization is very limited. The mechanism should be an instrument to promote

development throughout the whole country, thus implying that the number of municipalities should increase.

3. Sectors of the projects that comprise the project bank

Strengths:

- Sector prioritization has been correct. The proposal is to maintain the current prioritization during the first 5 to 10 years, and thereafter new sectors could be included, such as telecommunications, irrigation districts, farmers central markets, logistics hubs, recreational and sports facilities.

Weaknesses:

- Topics related to the health sector are the most difficult to be implemented by the taxpayers..

4. Business - State - Citizens Relationship

Weaknesses:

- Discussions were held at the working table where it was said that the mechanism has not allowed a fluent communication with all the communities. The relationship with the citizens falls short in non-PEDT municipalities.
- There is a bias for the implementation of the projects. Most of the businesses only implement projects in their area of operation.
- The mechanism is preventing the strengthening of the local public sector.
- Risk that arise during the process should be shared with the State.

5. Incentives and benefits for the business sector

Strengths:

- The mechanism is not an incentive and it does not yield tax benefits; nevertheless, businesses find different motivations to participate in the process.

- During the first years, it should be implemented as currently set up; however, in the long term, an actual tax benefit for the taxpayer should be included to achieve higher investment levels.
- Some of the benefits identified are the following: execution of high impact works, strengthening relationships with the population and their authorities. Associating the company's image with social benefit. Contribute to improve the quality of life of more Colombians. Know where taxes are invested in. Speed up works that could enhance local and business competitiveness.

6. Project procedures and formalities (Structuring and incorporation into the project bank, establishment of the escrow account (trust fund), implementation, follow-up and monitoring of the works)

Strengths:

- Some business owners stated the project feasibility process was positive, as well as the accompaniment of the entities during the first stage.

Weaknesses:

- These are projects that have been structured in the public sector, and therefore the business sector may identify shortfalls that may not be modified later on.
- If a bank project that has already been structured is chosen, businesses may end up doing somewhat more than what was initially suggested, but modifications to the project are not allowed and this could lead to work remnants.
- As previously stated, business owners felt that they were properly accompanied during the first stage. However, when the taxpayers are linked to the project, they feel left alone during the process and response times are delayed.

II. Improvements to the mechanism

1. Structuring, approval and establishment of the project bank

- It is important to ensure that taxpayers may contribute as of the structuring stage to ensure the success of the works and reduce the number of risks.
- Territorial entities should be strengthened to ensure they have greater capacities at the time of project structuring.
- Bank projects should always respond to the social demands of the territory and should be in line with the development plans.

2. Establishment of escrow accounts (trust funds)

- Accompaniment provided by the fiduciary companies to the taxpayers needs to be improved. They are very efficient at the time of client selection, but thereafter communication is lost.

3. Work audits and oversight (supervision)

- One of the most repeated statements is that the work auditors should depend on the taxpayers.

4. Project risks

- Regarding the topic on deadlines and time lines, there are difficulties in project implementation with ancestral communities, since prior consultations should be carried out, which go beyond the taxpayers' control.
- Another risk identified, related to failing to meet the time line, is associated to issues such as climate change, and land purchases, among others.

5. Institutional structure responsible for and accompanying the implementation of the mechanism

- Once the taxpayer is assigned to the project, dialogue with the State is not good, the process is delayed, and public entities are not aware of or know their responsibilities.

- A state entity should be in charge of the promotion and direction of Works for Taxes, to centralize the decisions, unify criteria, and have an articulating body.

6. Additional challenges

- Regarding the topic on focalization, some members of the working table suggest the possibility of yearly variations in the prioritization of the municipalities, with the purpose of preventing them from becoming accustomed to the benefits, and to ensure that results are not seen only in the same territories.
- On the other hand, the proposal is to prioritize the rural before the urban topic. The purpose is to reduce the urban - rural gap.
- If the time line may be modified, it is necessary to ensure that the budget may also be modified, to prevent cost overruns for the company.
- A regulation should clarify the point in time where the nature of the money for the implementation of the works is private or public. The changing point -from private to public- is at the delivery of the works. Once the taxpayer delivers the works, it becomes a public resource.
- The role of Project Management is still unclear. The first analyses fail to clearly determine whether management is also the executor of the works, with its corresponding responsibilities.
- The restriction that prevents construction companies and building material suppliers from applying their services and products in works to be developed by them as taxpayers should be eliminated.
- Considering that the CONFIS allocation assigned by the national government every year is essential for the determination of the amount for the projects to be structured, the proposal is to ensure that such figure should be announced far enough in advance.



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Works for Taxes:

Measure to transform the areas
most affected by the armed
conflict in Colombia

Maintain it? What for?