



## BRAZIL'S US\$64 BILLION INFRASTRUCTURE PLAN

The Brazilian government has recently announced a US\$64 billion infrastructure investment opportunity. This incentive on infrastructure is one of the major government stakes to strengthen the economy in the coming years. The announced opportunities include the concession of new roads, railways, ports and airports at an estimated total cost of 198.4 billion Brazilian Reals (\$64 billion). Part of that value reflects planned investments in existing infrastructure sites, but the bulk of it is deemed to new projects aiming at improving the country's productivity.

According to the Planning Ministry, Nelson Barbosa, this plan is an essential tool to restore Brazil's economic growth, thus all the new projects involved should start to operate no later than 2018 and, consequently, some of its public bids will be available as soon as this year. The Ministry also stated that the intended investments are crucial to achieve sustainable growth with fiscal stability and lower inflation.

The Government's business strategy is to attract private investors through market-friendly measures. On the launching of the campaign, Brazilian President Dilma Roussef stated that the Government will ensure legal certainty for investors who intend to be qualified in the biddings.

*"We will continue providing legal certainty to investors with stable and very clear regulatory frameworks. Brazil respects the law and meets the commitments"* noted Roussef.

The president also indicated that the planned concessions will be financed by the National Bank for Economic and Social Development (BNDES) as long-term investments in Brazil strongly depend on public banks. She said the BNDES not only will have "significant" role in the project finance, but will also offer interest rates and deadlines compatible with the market standards.

Overall, the spending plans come to \$27.9 billion for railroads, \$21.3 billion for highways, \$12.1 billion for ports and \$2.7 billion for airports, distributed as follows:

### **RAILWAYS:**

On the railway sector, the program foresees investments of \$27.9 billion for railroads in construction and/or upgrading of over 10,000 km of rail tracks. The railway program has three main guidelines: the provision of a wide, modern and integrated rail network; efficient and competitive supply chains; and lower tariffs.

For railways, the concession model will be built in accordance with the characteristics of each project. In the project list are excerpts from the North-South Railway and the

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ADVOGADOS

construction of a railroad between the city of Rio de Janeiro and the city of Vitoria, as well as Transoceanic Railroad, in partnership with Peru, which will link Brazil to Pacific Ocean, aiming to increase the operability of market transactions with China.

Railways will be one of the main priorities in the Government plan and, in this sense, these projects will receive distinct funding from the BNDES.

## HIGHWAYS:

In the highway sector, the program foresees the concession of Fifteen (15) lots of toll roads, on the total extension of 6.974 (six thousand and seventy four) kilometers. The estimated investment reaches US\$ 21.3 billion. The highway concession program has three main guidelines: the provision of a wide, modern, safe and integrated road network; efficient and competitive supply chains; and low toll rates.

## AIRPORTS:

Four of the main airports in the country will be awarded to the private sector through public biddings: located in the cities of Porto Alegre, Salvador, Fortaleza and Florianopolis. The Government plans to invest US\$ 2.7 billion in the four enterprises and the expected bids are predicted to occur from the first quarter of 2016.

In addition to the bidding of these four key airports, the plan also provides the granting of seven regional airports: located in the cities of Araras, Jundiaí, Bragança Paulista,

Itanhaem, Ubatuba and Campinas, in the state of São Paulo, and the city of Caldas Novas, state of Goiás. These projects comprehend a estimated cost of 78 million Brazilian Reais (USD 26 million).

## PORTS:

Also in the plan, the port concessions are divided into two blocks: the first will be subjected to public bids in 2015 and includes terminals in the ports located in the cities of Santos and Pará. On the second block of biddings, which shall occur until the end of the second quarter of 2016, the intended terminals will be the ones located in the cities of Paranaguá, Itaqui, Santana, Suape, San Sebastian, São Francisco do Sul, Aratu, Santos and Rio de Janeiro.

For the bidding of ports, the Government shall combine different criterias, such as greater handling capacity, lower tariff, lower cargo handling time, greater investment value, less consideration from the federal Government, better technique and bigger grant value proposal to define the winners. The rules for granting ports will be published in a forthcoming decree.

## FOREIGN INVESTMENT AND PARTICIPATION ON THE BIDDING

Initially it is important to mention that public bid is the formal procedure that allows Government to select the best contractor to render services, for construction works, to supply or acquire goods. Through that, the

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Public Administration selects the most advantageous proposal for a contract.

The entity interested in participating in the bidding should: fulfill the demands stated in the official announcement and the specific pertinent registry requirements and present the legally required documentation, which aims to evaluate the legal, technical, economical, financial and internal revenue qualification of the participant.

## LEGAL SUPERVISION

### 1. ENVIRONMENTAL LEGISLATION

The construction of highways, railways, ports and other major infrastructure works are legally required to go through environmental licensing. This is the administrative procedure whereby the competent environmental agency licenses the location, installation, expansion and operation of projects and activities that use environmental resources considered as being actually or potentially impacting; or those who, in any form, cause environmental damage, considering the laws and regulations and technical standards applicable to the case.

### 2. TAX SYSTEM

Brazilian tax scenario is dynamic and complex, being fundamental the acknowledgment of the general and specific tax rules to the decision making process of any entity wishing to invest or expand business in Brazil.

In this sense, the analysis of the tax scenario in Brazil is essential to draft a scheme of costs or to gather information about possible exemptions and legal benefits, providing general information about tax costs, rates, taxable basis, exemptions and special regimes applicable to foreign corporations.

### 3. LABOR LAW

Brazil's labor system is complex and costly. It is governed by the CLT (Consolidation of Brazilian Labor Laws), and its principles are grounded in the country's federal constitution. Thus, the compliance with labor regulation is imperative and has to be duly fulfilled.

Brazilian Labor Law is one of the most sophisticated legal systems in the world, which carries the most varied questions both during the implementation of a project as well as in the operation phase.

The Federal Constitution and the Labor Code provide for a series of minimum benefits that must be granted by the employer to its employees throughout the employment relationship. Such minimum benefits are uncommon on other countries and normally cause a great deal of doubts from foreign investors wishing to hire or dismiss employees.

For further details and questions, please contact:

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