

APOIO

PARCEIROS

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INTERNATIONAL MEETING INFRASTRUCTURE AND PPPS

Business Opportunities in Infrastructure and PPPs:
Meeting with the world references on the theme.

April 27th - 28th, 2015 - Brasilia

The success of the **International Meeting: Infrastructure and PPP** was achieved due to everyone's effective participation, creating an international environment of experience exchange during April 27 and 28, 2015, in Brasilia. This event is another initiative by the Brazilian Construction Industry Chamber in partnership with the Confederation of International Contractors's Associations and the Inter-American Construction Industry Federation, aiming to find solutions for the current context experienced by the Construction Industry. A special thanks to everyone involved and we expect that after this meeting, we have contributed to the growth and development of the Construction Industry in Brazil.



INTERNATIONAL INFRASTRUCTURE AND PPP MEETING

Brasília-DF, abril de 2015

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International Infrastructure

BUSINESS OPPORTUNITIES
MEETING WITH THE WORLD





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GRAND OPENING



EMRE AYKAR CHAIRMAN, CONFEDERATION OF INTERNATIONAL CONTRACTORS' ASSOCIATION



WHEN WELL PLANNED AND EXECUTED, PPPS CAN PROVIDE EFFICIENT INFRASTRUCTURE SERVICES WHERE THEY ARE NEEDED"

The International Infrastructure and Public-Private Partnerships (PPP) Meeting, organized by the Brazilian Construction Industry Chamber (CBIC) is the largest contractors meeting in 12 years, with a clear goal to discuss solutions and good practices in areas so diverse as access to drinkable water, highways and airports.

Furthermore, with the global population adding 2.5 billion people until 2050, and the huge challenges faced by nations in developing urbanization, this is the ideal context for the contractors experience to support governments to get the largest return possible from investments made with public money - which is always scarce for emerging countries.

"PPPs are not only financing projects, they are mechanisms for delivering value and best results for the money invested", declared Emre Aykar, chairman of the Confederation of International Contractors' Association, at the opening of the Meeting. "Getting inspiration from expertise, dynamism and skills of the private sector, they can provide higher construction quality, best oper-

ational performance, more efficient risk sharing and a more efficient construction completion".

The construction industry, which leads overall economic growth, is expected to expand at a yearly average of 4.3% until 2025, focusing on emerging countries. Investment in projects across the world shall rise to \$ 15 trillion in 2025 from a total of \$ 8.7 trillion achieved in 2012.

Facing so high amounts and demands, it is important to discuss weaknesses observed in PPPs as well, as contract rigidity, the need for developing more sophisticated contract models and faster dispute resolution mechanisms. Other aspects that the industry shall discuss are technical and financial feasibility, in addition to social and environmental impacts.

"When well planned and executed, PPPs can provide efficient infrastructure services where they are needed", summarized Mr. Aykar. "I honestly believe that those working in the construction industry not only shape our environment, but also build bridges between ages, culture, and people, leaving a long-lasting legacy".

GUSTAVO MASI VICE PRESIDENT, FIIC

**"AS AN ENTITY, WE SEE PPPS AS
CRITICAL TO THE GROWTH OF DIFFERENT
COUNTRIES AND COMPANIES"**

The private sector can go beyond from being just submitted to decision of governments, becoming real vectors for the economic development and growth of countries. The message of FIIC Vice President Gustavo Masi at the great opening of the International Infrastructure and PPP Meeting (promoted by the Brazilian Construction Industry Chamber) proves that there are alternatives available for maintaining the required investments in infrastructure, education, health, sanitation and other areas, even through budget constraints and public account adjustment.

"We should be the State's solution, to build growth policies and influence public policies", Mr. Masi said. "As an entity, we see PPPs as critical to the growth of different countries and companies"

The projects through which the private sector contributes with its expertise to improve the supply of public equipment and services are critical for the growth of countries, companies and public policies", stated the FIIC Vice President about PPPs. This is because this kind of partnership brings solutions not only for the government needs but also meet demands from society.

This and other reasons that were presented and discussed in the International Infrastructure and PPP Meeting, such as drafting serious, dynamic projects, support the State to reach the desired level of sustainable growth, according to Mr. Masi.



JÚLIO LOPES CONGRESSMAN (PP-RJ)

"IN CONGRESS, WE ARE READY TO WORK IN THE LEGAL FRAMEWORK AND IN THE NECESSARY SUPPORT TO PLACE THE COUNTRY IN THE DEVELOPMENT PATH"

The first PPP was launched in Brazil 161 years ago: the Barão de Mauá's railroad, starting a tradition of relevant Brazilian entrepreneurs. History proves it, according to Congressman Júlio Lopes (PP-RJ). In order to public-private partnerships can gain traction today, it is necessary to enhance the financial architecture available for companies so they can engage in large projects, in addition to update the legal framework.

The Legislative cooperation with government will be critical for establishing the conditions for a development leap and new investment rounds in

infrastructure. Congress, under the leadership of Congressman Eduardo Cunha (PMDB-RJ), is ready to discuss a legal framework that allow for progress in developing PPP.

The recovery of trust in the macroeconomic policy lies in the skilled hands of Joaquim Levy, current Minister of Economy, who allowed for a similar recovery of the State of Rio de Janeiro when he led the state's Finance Secretariat. Along with Nelson Barbosa, Minister of Planning, Levy will be able to rearrange Brazilian public accounts and to allow more PPPs.



"WE ARE SURE THAT WITH HARD WORK, SKILLS AND DETERMINATION, WE WILL BE ABLE TO HELP BRAZIL TO SOLVE OUR CURRENT PROBLEMS".



JOSÉ CARLOS MARTINS CHAIRMAN CBIC

Expanding Public-Private Partnerships and grants of enterprises and projects to the private sector may help Brazil to meet two immediate needs today: to fix public accounts at the same time investments in infrastructure, sanitation, education, health, energy and other priority areas are expanded. This was the vision of José Carlos Martins, Chairman, Brazilian Construction Industry Chamber (CBIC), delivered at the International Infrastructure and PPP Meeting's opening.

One way to achieve such expansion would be to study and elaborate models and good practices that could be replicated not only on contracts but also on finance modeling. One way to solve this issue would be to bring a United Nation Excellence Center to Brazil.

Such centers aim to develop practical PPP contract and formatting models that can be adapted by developing economies. As these contracts are easily replicable in several countries, such models end up speeding a more efficient, modern infrastructure development. According to the United Nations, replicating contracts by means of these models also represent a faster, cheaper way to eliminate bottlenecks in the sector.



By the end of his speech, the Senate's chairman submitted to government a study with proposals to enhance the PPP legal framework in Brazil. The document lists suggestions related to warranties and changed that would allow for more companies to join government bids. Increasing the number of bidders, along with transparency, would help to reach the values and goals of society and public administration.

Competition can be increased by better calculation on the contract modularity. In other words, instead of a bid comprising hundreds of kilometers, government could break down the bid into smaller ones. Thus, the number of participants increases and there is room for companies of diverse sizes.

The study also covers means to unlock a hiring model called project finance, by which the enterprise pays for the financing. In contracts like this, the investor takes the risk of construction until the grant starts generating revenue through charge of highway tolls, end user fees, store location rents and advertisement placing fees, among other revenue streams.

There are yet topics as process rating and step-in rights clause, which covers the repossession of a work in case of default.

Martins also mentioned that reducing paperwork is also listed in the document, detailing how to make the process simpler and allowing for a higher number of companies to engage. Rearranging the risk matrix is also covered by the document.

Delivering the study and the debates that would ensue at the International Infrastructure and PPP Meeting, promoted by the CBIC in partnership with FIIC and CICA, would represent a modern, propositional way for the private sector to cooperate and lead the problem solving and overcoming of bottlenecks.

NELSON BARBOSA MINISTER OF PLANNING, BUDGET AND MANAGEMENT

"THE BRAZILIAN ECONOMY HAS EXPERIENCED HARD TIMES LIKE THIS, BUT IT HAS THE TRADITION TO RECOVER FAST. IT IS VERY IMPORTANT TO USE THE FISCAL ROOM WE HAVE AS EVEN WITH FISCAL ADJUSTMENT WE CAN DO MANY THINGS".

The challenging macroeconomic situation will not prevent the government to keep public investments that are critical to infrastructure, namely one of the world's largest irrigation projects - the transposition of the São Francisco River - the My House, My Life housing program, and the Broadband National Plan. Furthermore, the government is giving final touches to studies for granting more highways, airports and railroads this year, while waits for the Federal Accounting Court permission to bid port terminals.

The minister of Planning, Nelson Barbosa, presented this overview at the grand opening of the

International Infrastructure and PPPs Meeting, promoted by the Brazilian Construction Industry Chamber.

In a 40-minute speech, Mr. Barbosa explained the new moment of the Brazilian economy. This is an adjustment period after a strong growth in the beginning of the last decade, during which Brazil benefited from a positive international scenario due to high commodities prices exported by the country. The government's decision to place social inclusion at the center of the macroeconomic policy also helped high growth rates. According to the minister, to lift



millions of people to middle class ensures demand even for investing in infrastructure. Government sees this period as "successful".

Lately, however, the Brazilian economy faces two challenges: a slow growing international market and a new price configuration, at the same time when the Brazilian economic policy is forced to answer demands from a higher number of Brazilian for more and more public services. According to Barbosa, this would be a natural progression from the social inclusion by income transfer: make available public services with higher quality and accessible to all population.

To reach this goal and give a second step towards social inclusion, it is necessary to adjust economic parameters, especially to reduce public net and gross debts, and bring inflation back to the target defined by the National Monetary Council. Barbosa said that in order to reach such goals, it is necessary to take inflationary measures and to reduce demand, initially.

As contradictory as it seems, according to the minister are measure like these that allow for economic recovery from balanced public accounts.

Since the end of Dilma Rousseff's first term, along with the previous economic team, the government is implementing such measures, such as raising taxes, eliminating subsidies and restricting the so-called "targeted credit", such as credit lines from the BNDES, traditional lender for large works in the country. Mr. Barbosa was firm when he said that the government expects to find new methods for financing infrastructure projects in the government's pipeline and that can be bid in the coming months, such as the capital market.

The important thing, stressed Mr. Barbosa, is to ensure the fiscal stability recovery and to resume economic growth, in order to ascertain the predictability necessary for long-term investment. "With the proper price structure, the market will produce cheaper which is expensive today", he summarized.

CUTTING EXPENDITURES

After years of growth in public expenses, part of them investments on works and projects, the government tightened the belt. According to Nelson Barbosa, there has been a cut of 33% in federal discretionary spending in the beginning of the year, when the federal budget was not even approved by Congress. The fiscal adjustment equals to 1% of the GDP, according to the minister. Thus, government expects that the so-called "fiscal effort" is poised to restore the balance between revenues and spending.

In this new context, the government did not relinquish public investments. It does not consider to interrupt work in progress or to stop paying contractors. But it will be necessary to increase the private sector's role in the country investment program, in order to cut costs for the public sector. The government expects that the fiscal adjustment will increase social inclusion later.

"We are experiencing fiscal restraints, which means that the government shall order projects to be executed", pointed the minister. Explaining that Dilma Rousseff's team is studying how to "order in time" the execution of projects, Mr. Barbosa did not detail this topic.

The minister added that the government is betting that the economic recovery will start in the second half of 2015, once the Brazilian economy "has been through hard times like this but has the tradition to recover fast". According to Mr. Barbosa, "it is very important to use the fiscal room we have as even with fiscal adjustment we can do many things".

As public accounts get their balance back, a limited investment agenda includes some projects that will not be interrupted and were classified as priority by the government. In other words, government will keep investing in the São Francisco River transposi-

tion, to be completed by the end of the next year or the beginning of 2017.

The My House My Life housing program will be continued, as it is considered by the government as one of the most successful projects recently and that had received inputs from CBIC since the start. According to calculations presented by Nelson Barbosa, the MCMV program have 1.6 million houses in the execution and hiring - two initial phases of the program.

The government plans to hire additional three million houses within the next four years. The minister also mentioned that sanitation and urban develop-

ment are possible targets for Public-Private Partnerships. "Brazil can progress a lot in water processing", he added.

In addition to My House My Life housing program and the São Francisco River transposition, both initiatives in the Growth Acceleration Program, the government aims to keep investing in the National Broadband Program that will connect the country with fiber optic cables and faster internet at low prices for the population. This is in line with the assumption to keep social inclusion at the center of the economic policy, as citizenship in the 21st century demands access and connectivity, explained the minister.

INFRASTRUCTURE

Granting infrastructure projects in logistics, transportation, energy and other areas is not something new to the Dilma Rousseff's administration that has interest in perfecting contracts as signaled in her first term with the National Logistics Program, according to Nelson Barbosa.

Even before a challenging macroeconomic context, the minister of Planning made a point by saying that Brazil still has good business opportunities, such as the renewal of Rio-Niteroi bridge grant, connecting both sides of Guanabara Bay. The project will receive R\$ 1.2 billion in investments after a solid competition in the tender, which will cause a "significant increase in the service quality", according to Nelson Barbosa. Another positive result was a 36% discount for the fee, as highlighted by the minister. Six competitors made offers.

"The population of Rio de Janeiro State will have access to a high quality service with fees 36% cheaper", he said. "This is an example of how the Brazilian economy is dynamic, even when the country goes through some difficulties and is growing more now, and yet it provides several profitable investment opportunities that combine service improvement with cost reduction".

The government is currently studying four federal highways that can be auctioned still in 2015, according to the minister of Planning. In the south, the BR-476 that connects the states of Paraná and Santa Catarina can be the first one to be auctioned, once studies are ready and under analysis to become tender's notice.

Other highways are in study and may represent a dramatically cut costs for transporting grains harvested in Mato Grosso, one of the most relevant agricultural states in Brazil and host to large soybean farms focused on exportation.

One of these highways is BR-163, between the states of Mato Grosso and Pará. According to Nelson Barbosa, granting the highway to a private sector may cut freight costs for grains that will navigate the Amazonas River until the North coast of the country.

There are two segments of a highway under studies by the government to be auctioned before December: the first segment is the connection between Mato Grosso and Goiás, and the other connects Goiás to Minas Gerais.

"As per normal procedures, these highways can be auctioned until the end of the year", the minister has said. "These five grants were started last year and will require investing some R\$ 18 billion during the execu-

tion, which is equal to 0.3% of the Brazilian economy. There are five highways representing 0.3% of the GDP in the first five years of investments. This is a small

sample of the opportunities that a continental, diversified country as Brazil has to offer"

NEW ASSETS

In line with the decision to encourage private investments in infrastructure, the government is considering new assets that may receive investments. Here, it would not be new ventures, but also the expansion of investments in highways and railroads already bid, granted and currently in the investment amortization phase as established in contract. In these cases, the government is assessing how to allow for new expenses by the grantees to adjust the modalities to the current situation of the Brazilian economy.

For highways, the government might auction new segments according to the current model, when the best fee offered wins the auction. But the government is open to discuss and study along with the private sector "the adoption of hybrid models for public-private partnership", said Nelson Barbosa.

According to him, highways in the North and Northeast of Brazil, where government identified more risk of demand, would be better explored this way, with the government partially remunerating the grantee. Highways in the South and Southeast would be granted as per the "traditional" model.

"We are open to study along with the private sector the adoption of hybrid public-private partnership models to highways where grantees may be partially remunerated by government", said Mr. Barbosa.

The minister also declared that both government and grantees have mapped new potential investment in existing grants and identified R\$ 12 billion in business - equal to 0.2% of the GDP. These would be investment that became necessary due to the country's growth, according to Mr. Barbosa, and that were not anticipated as to be in contract.

"These are improvements that have become necessary and feasible due to gains of scale, more traffic in these highways", he explained.

There is the focus to offer attractive highways to companies, the minister said. In this regard, the government would pursue the ideal equilibrium for a highway segment long enough to make financial sense, at the same time allowing for more competition between interested companies.

AIRPORTS

Upon bidding six airports in Dilma Rousseff's first term, the government will proceed with the airport granting program and may bid three new ones, in large touristic potential cities, until the end of this year, according to the minister of Planning.

Nelson Barbosa mentioned the grants of Guarulhos and Viracopos, in the State of São Paulo, Galeão in Rio de Janeiro, Confins, Minas Gerais, São Gonçalo do Amarante, in Rio Grande do Norte, and Juscelino Kubitschek in Brasília.

Now, the government plans to offer the airports of Salvador, in Bahia, Florianópolis, in Santa Catarina, and Porto Alegre, in Rio Grande do Sul. The first step was requesting a declaration of interest from the private sector. Interested companies draft a project that is submitted to government. According to Barbosa, the Executive branch analyses and make adjustments to take the public interest into account.

However, the government can bid additional airports than those three ones, which were mentioned by President Dilma Rousseff at the beginning of March. "We are assessing if it is possible to offer more airports", said Barbosa in the CBIC's meeting.

A possible change in relation to airports granted would be the participation of state-owned Infraero in the final consortiums, but the decision on the percentage of participation "will be made later", when the

government is discussing the financing model for each tender.

"We are in the phase of selecting assets and making feasibility and demand studies", he remarked.

Nelson Barbosa also stressed the potential of investments in regional airports in a country with 27 states and more than 5,500 cities. The government believes that the best method to explore this infrastructure needs to be found.

"The regional airport market is still a small initiative, as not all regional airports can be granted, but some of them can", he said. "So we expect that the granting model in the coming years can be expanded and improve the operation of several airports in Brazil".

PORTS

Under the new legal framework for ports, the 2013 Port Bill, the government elaborated an initial round of port grants for public use and sent all the documentation to the Federal Accounting Court, which has not pronounced yet. According to Nelson Barbosa, the Federal Administration is planning to launch the bids as soon as the Court grants its permission, and at the same time will present a second round of grants in the North and Northeast, locations with low risk of demand.

But business opportunities go beyond this. Barbosa stressed the Private Use Terminals growth. In more

than one year, the Federal Administration granted 34 permissions for these terminals, with investments expected to reach R\$ 8.5 billion.

In addition to renew existing grants (there are more than 24 requests for this made to government), the Special Port Secretariat also placed under public consultation a tender's notice to grant a channel dredging, a model that Mr. Barbosa said it is feasible according to the government's assessment. The government plans to bid the channel this year.

RAILWAYS

Railways are included in the Logistics Investment Program launched in Dilma Rousseff's first term, and is being studied by government and may offer new investment opportunities by the end of this year.

According to Nelson Barbosa, the Mid-West Integration Railway is moving faster, with the "bid

completed and authorized". Another project being assessed by the Federal Administration is a railway connecting the cities of Rio de Janeiro and Vitória (ES). The railroad will serve the Açú Port in north of Rio, where a Private Port "is growing well and becoming a viable export alternative" for products, according to Mr. Barbosa.

"Studies for the two projects are progressing fast", summarized the Minister. "There are other 5 segments scheduled to August".

Among studies for these segments, due to be completed by the second half of the year, the one progressing faster is the railway connecting Sinop (MT) to Miritituba (PA), which aims to reduce transportation costs to the port.

A model for the grant of these railway segments is not defined yet, according to the Minister. "We are accessing all models possible for the hiring", he pointed out. Some exercises where government takes the risk of demand are on the table, but at the same time the government can run a partial PPP to ensure a part of the investment. There is also the possibility of repeating the traditional model: investors pay the value of the grant and win the bid to manage the railway segment.

LEVERAGE

At the event's opening, the minister detailed the idea to use targeted credit resources from the Economic and Social Development National Bank (BNDES) to leverage financing of large works through the capital market, issuing specific bonds.

The government aims to link the amount loaned by BNDES to the resources obtained by the company from the market by issuing infrastructure bonds - a long-term security free from income tax. Thus, for every R\$ 1 the investor gets from the market, BNDES will loan another R\$ 1.

"We want to combine targeted credit with free credit so that one reinforces the other and not one compete against the other", described Mr. Barbosa, mentioning the Long-Term Interest Rates - used by BNDES for the majority of its loans - would be the same that was obtained from the market.

In this configuration, BNDES would also be supplementing other financing lines, offering loans to pay for the security financial costs in the two first years of grant. This is due to specific characteristics of the projects in this field, which demand a minimum period for investment until returns start to appear. As a highway, that can only charge users after making improvements such as duplicating segments and so on.

According to Mr. Barbosa, low interest rates applied by central banks in major economies al-

low for more liquidity internationally. But there is still version to risk. For this reason, "funding is not the issue"; the problem is to structure a good system for warranties or insurance. "We are open to suggestions and new resolution methods", said the Minister to the audience.

Nelson Barbosa left the event in a positive tone.

"The Brazilian economy is still a very dynamic economy. The international context has changed, the local context has changed as well, but some things have not changed: Brazil remains a continental country, with 300 million inhabitants, a highly diversified economy, with productive and skilled companies, a versatile workforce, with lots of productivity gains to be achieved. There are many business and investment opportunities in Brazil that can be explored by local and foreign companies, partnering one with another", he said.

After a long period fighting the damages of the global financial crisis, with a great deal of public investment into the economy, Dilma Rousseff administration has clearly signaled with Nelson Barbosa speech that the time has come to increase partnership in construction, financing, exploration and investment in infrastructure assets.

International Infrastructure

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INFRASTRUCTURE
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Renovating the logistics infrastructure and expanding health, sanitation, education and public security equipment is the main topic for Brazil today. The private sector needs and want to engage more, in a context of strong fiscal restriction and public account adjustment - an environment where errors in formatting projects cost much more to society.

To overcome such challenges by increasing healthy competition on bids, reducing risks of projects and enhancing financing structures drove the Brazilian Construction Industry Chamber (CBIC) to host the International Infrastructure and PPP Meeting in Brasilia, in April 27 and 28, 2015.

Debates started even before the meeting's grand opening, due to the rationale that more knowledge and information exchange supports the public interest and the private sector. With that in mind, the event's first panel joined what is more

advanced and efficient on PPP available today in Brazil and the world.

Abroad, the United Nations has been deploying excellence centers for studying and compiling best practices in PPP, in order to create a global database with contract models and studies that can be replicated in virtually all economic sectors - from housing to sanitation, from educational projects to public restrooms, from large logistics projects to hospital complexes.

In Brazil, the PPP Intergovernmental Network arose as a database on the domestic experience in PPPs, and is the reference for public entities and companies about what works and what has to be avoided.

According to José Carlos Martins, Chairman, CBIC, one of the goals is to connect both universes and bring to Brazil a UN Excellence Center, in addition to expand knowledge on the topic and disseminating information on good practices on contracts and projects developed in the country.

MODELS AND EXPERIENCES

Geoffrey Hamilton, former head of Cooperation and Partnerships of the UN's Economic Integration and Cooperation Division, was invited to present the UN's work and the reasons why the entity created such Excellence Centers. He explained how the new UN's Sustainable Development Goals that member countries shall adopt by September 2015 will definitely increase the private sector engagement in social inclusion and economic development projects.

The new goals will replace the Millennium Goals and will be ambitious as to replace hunger relief and reduction programs by eliminating the total number of people living in extreme poverty, by instance. Such ambition will be necessarily translated into an obligation of governments to work along

the private sector, in the UN's view - otherwise such goals will not be met.

In this regard, the UN work with some fundamental assumptions: to identify best practices available and hiring, financing and elaboration of studies that work; formatting these cases as model that may be replicated anywhere in the world; and encourage zero tolerance against corruption.

Priscila Romano Pinheiro, Technical Coordinator, PPP Intergovernmental Network, presented examples of good practices and projects that worked in the state of Bahia, such as the construction of the Fonte Nova Arena and the Salvador metro line.

Read below about the speeches and the CBIC Chairman's presentation.

JOSÉ CARLOS MARTINS CHAIRMAN, CBIC

The International Infrastructure and PPP Meeting goal was to discuss and debate on the main infrastructure bottlenecks, such as warrant formatting, the use of warranting funds, project financing methods, and conflict solving. Professionals with large experience in these topics were invited.

One of the special topics that led CBIC to organize the event is the PPP Excellence Center. The idea

is to create a forum to discuss these topics, where international experiences can be gathered by those experiencing them on a daily basis.

Finally, Martins thanked all speakers and local and foreign participants, especially the Confederation of International Contractor Associations (CICA) and the Inter-American Federation of the Construction Industry (IAFCI).

"WHAT WE ARE PROPOSING WITH THE EXCELLENCE CENTER IS THE SUPPORT TO OUR AFFAIRS FROM AN INTERNATIONAL NETWORK WITH DAY-TO-DAY EXPERIENCE IN THIS TOPIC".





"WE SHALL PRIORITIZE ZERO TOLERANCE AGAINST CORRUPTION"

GEOFFREY HAMILTON HEAD OF COOPERATION AND PARTNERSHIPS OF THE ECONOMIC COOPERATION AND INTEGRATION FOR EUROPE OF THE UNITED NATIONS

The importance of Public-Private Partnerships for sustainable development and how the United Nations plan to drive this kind of project for social inclusion and reducing inequality until 2030 were the topics covered by Geoffrey Hamilton, Head of Cooperation and Partnerships of the Division of Economic Cooperation and Integration of UN for Europe.

He opened by announcing that his speech would be divided into three parts. First, we would argue that PPPs are excellent tools for sustainable development. Second, he would present how the new UN development goals to be announced in 2015 will encourage

PPPs at a global level. Finally, on the third part he would explain the International Excellence Center.

Hamilton is currently in charge of a global project for creating Infrastructure and PPP Excellence Centers around the world, based in Geneva. The initiative supported by the UN aims to improve understanding about these actions and to prepare international models to support countries to implement UN's Sustainable Development Goals.

To show how PPPs and similar projects versatility apply to several areas in the economy, Hamilton explained how the private sector helped to renovate schools in the United Kingdom.

In 2000, companies that were selected by the government went to the trouble of asking students what they wanted from schools. Thus, they have detected issues arising since Victorian days: schools lacked sheltered patios - after the break, students had to waste time to heat themselves during rainy months before getting back to the classroom.

In addition to get sheltered patios, students got access to internet and their own emails due to private sector methods, until then disregarded by the government. Innovations also pleased teachers, who wanted to work in better classrooms.

SOCIAL DEVELOPMENT AND INCLUSION

Sustainable Development Goals are quite ambitious and will drive the international agenda for the coming 15 years, both for the UN and regional and domestic development banks and the World Bank. What sets the new goals apart from the Millennium Goals is the ambition: if the UN achieved problem reduction commitments before, now the goal is to eliminate inequalities.

There will be goals for high-quality, continuous education for all and goals to ensure healthy lifestyle with well-being for all ages. There are still goals to broaden access to clean water and sanitation to all, in

a climate change context. The common denominator is access to essential services.

The challenge is to bear the costs for so much. It will be necessary to invest between \$ 6 trillion and \$ 7 trillion until 2030.

To ensure a true commitment to these goals, PPP projects will be required, and there will be a huge demand for good information on models that national and local governments might follow. Hence the UN focus on creating Excellence Centers that may create contract and warrant models to be replicated by governments from different countries.



OVERCOMING RESISTANCE AGAINST PPPS

It is not always easy though to convince governments to trust in partnerships with the private sector to meet social demands or to improve population's well-being. This does not occur only in emerging countries, where the cost for big works takes a larger proportion of the GDP.

Resistance against PPPs is found even in Switzerland. Recently, the UN office in Geneva presented to the city an idea to make a partnership to renovate the traditional Places Des Nations, built in the beginning of the last century for the now defunct League of Nations - the international arrangement in effect before the UN in the period between wars.

The cost of the project was \$ 750 million, but the city was afraid to "enter in the dark" in relation to the topic and shelved the project. The outcome could be different if some negative and positive PPP experiences, standards and models could have been submitted to the city.

Excellence centers aim to overcome such resistance by replicating international standards and recommendations, based in good practices and projects that achieved proven, recognized success.

Currently, three standards and recommendations are in development, and by the end of the year, the UN expects to have 10 to 15 research groups with more than 200 experts working in several countries.

There is an excellence center focused on health in the Philippines. In Morocco, the goal is to survey information on PPP in renewable energy and in India the work is focused on access to drinkable water and sanitation projects. By the end of May, a new excellence center was opened in Paris, focusing on public policy best practices.

Entities such as the World Bank already have excellent materials in PPP and the UN is also assessing this information.

In addition to the success of these centers, the UN also aims to use them to find innovative, relevant approaches. The Philippine center, for instance, is working with telemedicine on how to allow for expertise exchange in surgery for that country. Other study tries to apply this know-how in a post-hurricane context, when there is the destruction of communication, energy and hospital facilities.

In order to projects formatted by excellence centers contribute decisively to the development of nations and to meet the Sustainable Development Goals, it is still required that standards are strictly implemented. In other words, making poor use of standards can backfire and create difficulties for disseminating good practices.

CORRUPTION

The use of good practices and real life-tested models, signed off by the UN and carrying the entity's reputation, aims also to eliminate corruption - as practices such as bribery and kickback many times prevent the engagement of international companies to projects.

It is not possible to transfer capital if the parties involved feel that the countries involved will not make proper use of it. It is necessary that this is a

worldwide concern, creating good practice certificates to be granted by companies to government and their controlling entities, for instance.

Brazil is a critical player for PPPs, given its vast territory, potential and experience. For this reason, it is important that not only the private sector but also the government work together with the UN's workgroups and create studies on sustainable development.

PRISCILA ROMANO PINHEIRO TECHNICAL COORDINATOR - PPP INTERGOVERNMENTAL NETWORK

The PPP Intergovernmental Network was created in 2014 in the state of Bahia and aims to discuss demands related to the type of tender. Five projects were hired in Bahia by means of grants and PPP, the highlight of those being the Hospital do Subúrbio, a project internationally awarded several times.

The public sector needs to organize itself, especially during periods of crisis and public account adjustments, to draft projects that see the light of day in the coming years. PPP units need to be trained by experts that understand the specific language of this sector.

This would prevent the current situation, where many States and cities post public consultations but do not manage to take these projects to the final bidding phase - many of them due to lack of knowledge on how to proceed.

Most cities lack legislation and or warranty funds that may support process and their projects. The PPP Intergovernmental Network aims to nurture the development of these legal and financial instruments. For this, some configurations were set up to encourage experience exchange between the highest number of states and cities as possible.

"ONE OF THE NETWORK'S GOALS IS TO GATHER A HUGE DATABASE FROM WHICH WE CAN SHARE MODEL'S FOLLOW-UP AND INNOVATIVE SOLUTIONS BEING MADE."



The Network aims to create a solid structure for public managers and other PPP stakeholders. The Network is available to all Federation entities, the public sector, structuring agencies and project managers. It is also opened to state-owned banks and development entities, public lawyers and PPP warranty funds.

The Network is coordinated by Rogério Princhak with assistance by Jorge Ares in Rio de Janeiro. Bahia and Rio de Janeiro are States with solid projects in the area, according to Priscila Romano. Since last year, the Network was joined by Espírito Santo, São Paulo, Minas Gerais, Sergipe, Rio de Janeiro, Rio Grande do Sul, Santa Catarina, Mato Grosso, Paraná, and the Federal District.

THE HOSPITAL DO SUBÚRBIO

The BNDES has been a great partner for States and cities in this initiative. Bahia created DesenBahia, a development entity that supports projects, signs granting contracts and helps offering warranties to the project. As these are large projects, it is really necessary such financial backing so that companies can invest safely.

The Hospital do Subúrbio gained more praise among those executed by Bahia, being granted three international awards. It was awarded in 2012 as one of the 100 best global projects by KPMG and World Finance. It received a prize from the World Bank in 2013 and it is competing for the UN's highest prize for initiatives focused on public service.

Priscila Romano explained that the Hospital do Subúrbio project was modeled by the State of Bahia under an agreement with the International Finance Corporation (a World Bank's arm that loans to companies) and BNDES. Today, it is the only project for the essential service sector that is in full operation in Brazil.

Mrs. Romano also said that health and education may not seem so attractive for the civil con-

struction industry, as highways and subway lines make for larger investments. However, in the case of the hospital, it was an R\$ 1.3 billion project in 2010. According to her, the construction phase of the Hospital do Subúrbio project was started after the IFC and the BNDES jumped in to model a differentiated and daring proposal for Health.

Due to the success of this PPP, the State government team developed the Instituto Maia project. This is a project for Medical Imaging joining 12 healthcare units with telemedicine, involving a diagnosis center that is not located in the same facility conducting exams. The Network aims to replicate this model in other regions.

"This is something hard to see in States, to have a team to work in projects, to review proposals to build documents that are really solid and bring more confidence to the player in the bidding process", clarified Mrs. Romano.

Other projects carried out in Bahia were Fonte Nova Arena and the Salvador subway, which is managed by the State and built under the grant and PPP model.

DIFFERENCES BETWEEN PARTNERSHIPS

Priscila Romano explained that in the asset allocation, there is a difference between administrative PPP, when risk can be shared more effectively with the private sector, and sponsored PPP, when the private partner has greater autonomy to finance, build and operate services. In the latter, the relationship with the user is also different, as the company delivers the service directly to customers. In this case, the government is in the position where it should be, which is to regulate and establish rules, overseeing and implementing new policies.

On what concerns Health-related projects, user satisfaction is above 90 percent. With projects like

this, the State aims to encourage PPPs and grants by reducing risk. It is still necessary to enhance control mechanisms to precisely regulate the participation of regulation agencies and institutionally strengthen these entities and increase their budgets.

When operations fit into a State's credit limit, opportunities can also be created to exempt the State from that immediate expense and spread the spending over time, diminishing thus the needs for investment that may be a much heavy burden for municipalities. For this reason, grants and PPP can expand government's ability to invest in actions that are necessary to the population.

THE PPP INTERGOVERNMENTAL NETWORK

The Networks is based in three main pillars: articulation, knowledge management and training. The goal is to bring more efficiency to the public sector, defining a common agenda for States and allowing for exchange of knowledge and experiences.

Priscila Romano also highlighted the importance of the relationship with multilateral entities to bring international parameters to Brazilian projects. By this, it is expected that high standard projects are developed here, removing prejudice against project structuring made in Brazil.

The Network coordinator also argued that this is a path that leads to positive consequences such as transparency to public spending, effectiveness to what needs to be done - which is to provide the population with essential services ranging from Health to Public Transportation.

For this, one of the Network's goals is to gather a huge database from which we can share model's

follow-up and innovative solutions being made. Furthermore, another goal for the Network's two first years is to create a training program for a deeper qualification.

Priscila Romano said that actions are being scheduled in order to strengthen the cooperation with Public Attorney, Accounting Tribunal and international agreements.

By dividing into sectors, the Network identified that Transportation has 15 projects submitted in the last year, followed by Ports and Health.

According to the Network, Bahia is working on five projects and the State of São Paulo on three projects.

By explaining the situation in Bahia, Priscila Romano said that the project execution aims the reduction of paperwork and increase competitiveness, giving more flexibility for structuring and also for connecting actions.

QUESTIONS

In the first panel, the audience asked about challenges to improve PPP in Brazil.

To Priscila Romano, project structuring is the most important, as city and State teams are not prepared to receive interest declarations and to produce interest declaration proposals. Another issue according to Mrs. Romano is that most cities and some States do not have their own legislation. The legal limit of committing 5% of net current revenue and warranty demands were also pointed as challenges by the Network's technical coordinator. Another question was about the number of projects. In Mrs. Romano's assessment, PPP and grants shall be an option as they ensure more

transparency to public spending. By answering a question about independent overseeing, Priscila Romano said this is a very important partner to States in order to follow-up hired projects, to re-evaluate existing contracts, to model new projects and even to update the legal framework.

Priscila Romano also reinforced that the PPP Intergovernmental Network was created to allow for States and cities to build a public database free to anyone to use. André Guanaes, from Sócrates Guanaes Institute, asked her about the still small number of projects in Health. She explained that the Network's goal is to encourage States and cities to run PPP and grants also in this sector.



APOIO **SENAI** REALIZAÇÃO **CBIC** PARCEIROS 

International Meeting
Infrastructure and PPPs
Business centered in infrastructure and PPPs,
meeting with the social responsibilities of the market





**DISPUTE RESOLUTION ON
PPP CONTRACTS**



The second International Infrastructure and PPP Meeting panel aimed to review how companies and the public sector can get prepared before, during and after signing contracts to deal with eventual issues and disputes between the parties. Sometimes, legal disputes lead to interruption of works by decades or a poorly drafted contract can cause unnecessary losses to companies.

The debate was joined by the US lawyer Christopher Wright, partner of the law firm Watt Tieder Hoffar & Fitzgerald, LLP, who highlighted the need for fast solutions for disputes and planning what kind of problems may arise even before the start of a PPP.

The lawyer criticized the currently most used methods for conflict resolution, as they take time and do not force the parties to conduct in certain

ways. Mr. Wright also listed ways to prevent that conflict resolution causes delays or additional costs.

The other speaker was Julio Cesar Bueno, partner of the Brazilian law firm Pinheiro Neto Advogados, who went through the landscape of international laws and treaties that may affect PPPs, grants and infrastructure projects in Brazil. Mr. Bueno also highlighted the pros and cons of forecasting arbitration in contracts and went through the history of the so-called Dispute Boards and its usage in infrastructure contracts.

Henrique Fronknecht, Director of Claims and Consultant for Latin America, Hill International Group, exemplified situations that may generate disputes in PPP contracts and the type of risks to which these contracts are subject.



CHRISTOPHER WRIGHT PARTNER-DIRECTOR, WATT TIEDER

It is important to establish efficient means to prevent disputes in long term contracts, but if those arise, it is critical to know how to solve them quickly. It is very important to understand the unique nature of PPP projects. Thus, the parties will manage to understand the main friction points and the causes of possible disputes. In situations where disputes are already placed, the parties shall solve them as efficiently and economical as possible. To observe these two points ensures that the partnership will go on, also ensuring better projects and better prices.

PPPs can be defined as cooperatives between the public and the private sectors, built upon the expertise of each party. This means to clearly define public needs to ensure the proper allocation of resources, risks and rewards.

From this definition, it is possible to take away two key concepts: first, it is a partnership, which sets PPP apart from how traditionally public works are conducted. Secondly, it is necessary to clearly define the partnership goals, and this is the number one

method to prevent future disputes among companies and the public sector.

It is still needed to deal properly with risk allocation and eventual bonuses and rewards promised to each party of a PPP, as some parties join the partnership to make a profit and thus, they bear a risk if they fail. Furthermore, it is necessary to submit warranties.

Any PPP, whether for bridges, highways, hospitals and power plants, have one thing in common: they are all complex enterprises and contracts. This means that changes can happen for several reasons, which generates financial impacts to balance sheets and public accounts.

As these are long works, interrupt them to solve eventual disputes would also generate impacts and losses. The speaker also highlighted that it is necessary to focus in best methods to solve issues in order to avoid delays.

"IT IS NECESSARY TO THINK IN WAYS TO DEAL WITH THE INEVITABLE ISSUES THAT WILL ARISE DURING THE CONSTRUCTION".



PLAYERS

Wright highlighted that there are other stakeholders to a PPP contract in addition to government and the grantee - many times, there are investors. And for each such connection there is a possible source of friction, hence this instrument is much more complex than public projects.

PPPs can see friction between government and the grantee or between the grantee and their providers and maintenance companies. Thus, it is required to have a way to anticipate these issues and deal with them.

Wright went on to say that unfortunately, there is something missing in the most common ways to deal with construction projects, such as dispute

boards or arbitration. These instruments, in his opinion, have issues related to their duration and to the lack of ability to force the parties to operate in certain ways.

Currently, the most common way in this regard are the so-called Dispute Adjudication Board (DAB), used both in the United States and other countries, and that may be followed up by arbitration. Wright lambasted this way as it takes too long to present a solution. And in cases when DABs are followed by arbitration, these processes can take from six months to one year to be solved. This shows that it is necessary to create a more efficient means to solve disputes for all parties.

POSSIBILITIES

As an alternative for these issues, it is necessary to make clear what expected results are for the government and the private sector. Clarity is important and it works as prevention. It is worth to spend time with the best, clearer definition of terms, obligations and other contract items and the relationship between public and private.

Secondly, it is necessary to properly allocate resources so that everything is approved. Wright believes that time can be saved if it is possible to make a revenue with anticipation, for instance.

Another important point is to implement a review mechanism across the process. Instead of waiting for completing parts of the project and send those to government, a dialogue should be established before, involving representatives from all parties.

According to Wright, it is also necessary to prevent planning disputes. Many times, there are disagreements between the contractor and the grant-

ee in relation to design, which may cause delays and risks both for the companies as for the public sector.

Creating a fast approval mechanism for changes in post-design phases is also an option to anticipate possible issues during the grant. For instance, technology will change and it is going to create problems, which will require quick solutions.

The lawyer also recommended making Dispute Review Boards or Dispute Adjudication Boards faster and more efficient. A possible solution would be to establish dispute boards for each phase or issue that may occur during the construction process.

Wright also suggested adopting best practices. He highlighted that it may sound an obvious advice, but it prevents extra costs. For PPPs, DRBs and DABs, the best practice is to be hugely familiar to the project.

JÚLIO CESAR BUENO PARTNER, PINHEIRO NETO ADVOGADOS

"ARBITRAGE, AS BEST AS IT SEEMS, MANY TIMES REPRESENTS THE SHREDDING OF THE RELATIONSHIP AND EVEN THE TERMINATION OF THE CONTRACT".



Julio Cesar Bueno, lawyer and partner of law firm Pinheiro Neto Advogados, put into context all dispute solving methods applied in Brazil that led to an expansion of conflict solving concept in PPPs and grants.

For Mr. Bueno, Brazil has a unique position in Latin America as the country was colonized by the Portuguese but having other influences as well: The British, especially upon the release of ports in 1808 left an undelatable mark in the Brazilian business administration and in the own concept of grant, as a means to deal with infrastructure project proposals. Despite being a country with civil jurisdiction, Brazil is also heavily influenced

by the USA in the public area and by France and Portugal in the administrative area.

Such diversity is one of the challenges investors face when considering a country not only as large as Brazil, but also opened to investment and at the same time so difficult to be read in legal terms.

In the other hand, Brazil delivers a more egalitarian treatment to foreign companies in legal disputes in relation to local companies. Brazilian difficulties are local and cultural, caused by a closed evolution, by a culture that tried for some years to protect the local asset by not applying alternative methods for solving disputes in a more international spirit.

THE CALVO DOCTRINE

Along with countries like Argentina, Chile, Venezuela, and Bolivia, Brazil was influenced by the Calvo Doctrine. Created by the Argentine diplomat Carlos Calvo, it determines that locals should be treated differently at the exercise and application of legislation.

The doctrine was in vogue at the beginning of the last century and strongly influenced several national legislations. Some of them added to their institutions the prohibition to use foreign legislation or courts to solve disputes during the lifecycle of a contract. This caused legal borders to close and a reaction by investors towards these countries.

According to Bueno, pressure was applied in three levels. First, the pressure was to force Latin American countries to submit into the International Center for Solving Investment Disputes (ICSID) - a treaty created in the 1950s that define the possibility to countries to be taken to court and have their assets seized in an international legal environment, according to criteria established in the agreement's text.

Another pressure was applied to submit these countries to the Convention of New York that works as if investors were saying: "we want your country to have and safeguard international warrants of legal decisions". "If any company has a legal decision in my country that should be executed in your country, I want this decision to be executed in your country as it was executed in mine."

Third, pressure was applied to countries to adopt an alternative model for solving disputes that were different from the pure and simple State jurisdiction. For Mr. Bueno, foreign investors do not

feel at ease when they face a clause establishing the adoption of a local law to solve disputes.

As for the submission of Latin American countries to the Convention of New York, Brazil was one of the last countries to agree - which took place in 2002. Some countries entered into the Convention in 1962. Such delay shows the how Brazil was resistant to yield to international pressure and to see that the disputes and conflict solution issues in contracts, especially those for infrastructure where PPP and grants take place are very important factors. Mr. Bueno argued that there is no need to subject to the ICSID, which did not happen until now.

Finally, the lawyer presented the Arbitrage Bill passed in 1996, much after other countries. Brazil's Real Plan had stabilized the economy and a new administrative contract law was passed, the so-called Tender Bill (Law # 8.666 of 1993).

This was the context in which the Arbitrage Bill was passed. Soon after, the Brazilian Judge Association declared that the new bill was unconstitutional.

The Supreme Federal Court ruled in 2001 that the law was constitutional. Mr. Bueno clarified that the Brazilian law makes no distinction between local and international arbitration. This means that even if there are Chinese arbitrators or the contract is written in Japanese, the law safeguards and ensures arbitration as the dispute solving method in the country.

BEGINNINGS

The PPP Law allowed the adoption of arbitration for this type of hiring. The problem, according to Mr. Bueno, is that the law is not as effective as it should. There are not so many experiences of arbitration with PPP especially under at the Federal Government level.

Another change was the recent recognition by the Supreme Justice Court that partially state-owned companies can use the arbitration clause. According to the speaker, this is an important concept for foreign investors engaging in PPP and grant project in Brazil.

Finally, there is now a bill draft changing the arbitration law, which can also alter the whole scenario. This project can make arbitration clearer and more effective in PPPs.

However, Mr. Bueno believes that the most pressing problem is that the dispute solving clause can have a strategic important to prevent and solve conflicts during a complex project that may last for 30, 35 years. The lawyer explained that arbitration, at its best, is something radical, a measure that many times means that the relationship is fraying.

In this context, Mr. Bueno argued in favor of Dispute Boards. These were created in 1974 at the Virginia Polytechnic Institute and State University, which identified that lack of communication and proper understanding of risks were causes leading to conflict.

At that time, it was proposed the creation of a panel comprising three experts to follow up these projects from the start, getting to know well the project and provide opinions from time to time on issues, doubts, problems and eventual conflicts between the parties.

Years later, the model was perfected and in 1986, it was created the Dispute Resolution Board, with better structures rules that are adopted today by the World Bank, the Multilateral Investment Guarantee Agency (Miga), by the Inter-American Development Bank and other multilateral development entities.

Dispute Boards can be sterilize lesser conflicts that many times, when added up, can compromise the development of the project. But they do not eliminate arbitration, which remains a means to solve conflicts in the project.



HENRIQUE FRONKNECHT DIRECTOR OF CLAIMS AND CONSULTING FOR LATIN AMERICA, HILL INTERNATIONAL

"RISK IS SOMETHING THAT CANNOT BE ELIMINATED BUT MITIGATED"



Henrique Fronknecht, Claim Director for Hill International, praised arbitration, but prefers any other methods that avoid its use. According to him, the model of conflict solving with expert arbitrators is cheaper than a legal action, but this does not mean that arbitration is not expensive. It would also be a lengthy process.

For PPPs, this is even more delicate in case of a conflict, because there is always the public interest involved a service to be delivered to the population. And it is important that the project goes on. In this

case, dispute boards, conciliation or mediation would be good solutions.

The director said that there is one case in Brazil that submitted ten questions to Dispute Board and today there are ten arbitrations on this project. For Mr. Henrique, DB has to be operational and well selected; otherwise it will only bring extra costs for a social project.

Hill International is a large multinational around the world with a small footprint in Brazil. It is an expert in risk management, claims and construction projects.

AGREEMENT

For PPP contracts, the only mean to arrive at an agreement when conflicts arise is to review the contract, ordinarily or extraordinarily, which means the maintenance of the financial equilib-

rium. Other conflicts arise when performance levels are not agreed between the public and private partners, but this is more difficult to escalate into a conflict.

The main causes for imbalances arise from the contract, especially from risk allocation, which has to be thorough, as it is a long term commitment.

To note errors and omissions in a project is also very important to define production costs. The director also said that as these are long-term contracts, there are many changes in the conditions, especially for demand issues or the product and new technologies own qualification.

Divergences on the private partner's performance are also an important point affecting not only remuneration as well as the relationship with the population. Henrique also clarified that external interferences may upset the contract's equilibrium.

The director said that there are two main risk factors. The ordinary ones are inherent to the business and the economic activity involved, and usually are borne by the private party. The extraordinary ones are borne by an insurer or are allocated to the public sector. A party can only request the equilibrium or the contract review due to the risks borne by the other party.

According to Henrique, risk is something that cannot be eliminated, but mitigated only. If something can be eliminated, then it is not risk.

Conflicts arise when the equilibrium cannot be restored. This can happen, for instance, due to a poor presentation, among other reasons.

Even with a legal clause for applying arbitration on PPP contracts, 75% of contracts has chosen a court and 25% have arbitration clauses.

Dispute Boards are positive initiatives but has to be thoroughly implemented with qualified experts. Also, their operation has to be controlled.

For existing contracts, it is mandatory to carry out at least one conciliation session. This is an indication that the Judiciary itself is choosing conciliation to prevent legal action.

In this regard, Henrique argued that the best rule is to prevent. Dispute mitigation shall be the focus of every contract, not only PPP's. For this, it is necessary to manage risk, performance, relationship, and payment.

QUESTIONS

The speakers were asked about selection criteria between Dispute Adjudication Board and Dispute Review Board.

Hill International's Henrique Frohnknecht said that there are three important elements on this regard. The first one is technical, when the board members are aware of what is being done to be able to assess the real impacts of every change. Next, time availability by board members to follow the project and last, the selection of proactive individuals that is able to see a problem before it arises. According to him, the dispute board benefit is that its scope is smaller and if the project reaches arbitration, the latter will be faster and cheaper.

Pinheiro Neto Advogados' Partner Julio Cesar Bueno completed by saying that criteria for selecting

members of a dispute board shall be the same for arbitration. According to Julio, arbitration requests are increasing and the number of expert arbitrators available is small.

Mr. Bueno was asked for dispute board examples in Brazil. He mentioned São Paulo's metro and said that the instrument is present mainly in partnership contracts. In these cases, the lawyer explained that dispute boards work well because there is a higher demand for sharing risks.

As example, Henrique Frohnknecht suggested to the audience to get to know dispute boards for the Panama Canal that have achieved good results in his opinion.

International Infrastructure BUSINESS OPPORTUNITIES IN IN MEETING WITH THE WORLD RE



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SCENARIOS FOR PPPS IN BRAZIL AND THE WORLD



The International Infrastructure and PPP Meeting's second day discussed contexts and investment opportunities in public-private partnerships in Brazil, Latin America and Turkey. Financing models and sources, warranties to ventures and business opportunities were also discussed.

The first debate covered PPPs in progress in Brazil, the influence of politics in the process and the speed of such initiatives, as the fact that governments usually manage to post tender's notices only in their last year of term. The talks were facilitated by Bruno Pereira, partner, Radar PPP, and also covered difficulties faced by the Brazilian public sector to deal with long term projects and longer contracts.

The Chairman of the Confederation of International Contractor's Associations (CICA), Emre Aykar, explained the scenario in Turkey. How to make projects see the light of day, such as an underwater tunnel connecting Europe and Asia? He explained not only Engineering challenges, but also the financial, governmental and multilateral architecture required to make the project happen.

Awarded in international forums, the PPP covers a connection between Istanbul and the Turkey region in Asia by roads and an underwater tunnel 5,400 meters long, 100 meters below the sea level. The \$ 1.25 billion project relied upon a specific financing structure and critical warranties for being carried out. When it is ready, the work will cut traffic times between both continents to 15 minutes, from 100 minutes.

He also highlighted other four PPPs being executed in Turkey, for bridges and the third airport in Istanbul.

Mr. Roger Fiszelson, Director-General, CICA, said that around \$ 57 trillion will be invested until 2030 in new infrastructure works. However, it is necessary to update legislation and the vision of multilateral entities. Institutions as the International Monetary Fund and the Bank of International Settlements (consid-

ered as the Central Bank of central banks) shall properly translate the risks involved in PPPs - a process that could speed and reduce financing costs.

He also highlighted that improvements must be made for PPPs to flow better. Among the topics, there are deeper social-economic analysis, clear definition of priorities and faster approval, permitting and purchase of land.

Fernando Lago, FIIC, explained the scenario for PPPs in Latin America and brought an innovative suggestion. According to him, countries in the region have accumulated large international reserves to face exchange rate imbalances, which have always affected the region. Today, however, these resources could be better used as part of warranties or financing of infrastructure projects - a common need for all Latin American countries.

In his view, the region is facing relevant challenges, such as the lack of legal frameworks and experience with PPPs. Furthermore, years of macro-economic imbalances left local financial markets undeveloped. Risks of devaluation and inflation spikes should be also considered, according to Lago.

He highlighted examples of successful PPPs, such as the Line 4 of São Paulo Metro as the building of public restrooms in Maharashtra and Tamil Nadu, in India. Results from a survey conducted in 2014 with FIIC members on PPP experiences in Latin America were released. Topics covered were formats for conflict resolution, local company participation and a specific legislation.

"THE PUBLICATION OF INTEREST MANIFESTATION PROCEDURES HAS CHANGED THE BRAZILIAN MARKET IN THE LAST YEARS".



There are many challenges and difficulties with doing long-term business with the public sector. Radar PPP gathers data from more than 400 projects in several stages. Brazil has 46 state PPPs, 29 city PPPs, and 1 federal PPP. As for the type of PPP, the majority is administrative grant with 76 signed contracts. There are less sponsored PPPs.

Most partnerships were signed at the end of the state political cycle, in 2013 and 2014. In 2012, the last year of mayor terms, 13 contracts were signed between cities and the private sector. Bruno explained that in the Brazilian context, a decision made on the first year of the term of a governor is effectively turned into a tender in the third or fourth year of the term.

The average timeframe between modeling a PPP and the tender is 20 months.

Aware of that, many state managers declared their interest in PPPs in 2011, at the beginning of their terms. Consequently, the topic gained traction in the private sector and in the press. At that moment, the Interest Manifestation Procedure was regulated, allowing companies to offer and submit feasibility studies for potential PPPs to the public sector.

"This created an institutional window between the public and the private sector in the pre-bid phase. Millions of reais were spent by the private sector to deliver feasibility studies to the public sector, aiming to create a PPP pipeline", he remembered.



As the ministries of Planning and Economy are signaling that state-owned banks will operate differently in Brazil, there is a great question mark hanging over who is financing long term public contracts. Up to then, these ministries were offering credit for long term projects. "There is no PPP without players", said Bruno Pereira.

Another factor that must be tracked is the interest rate managed by the Central Bank. Aiming to fight inflation and bring price indexes back to the inflation target defined by the National Monetary Council, the Central Bank is raising interest rates, making credit expensive and increasing longer financing cost curves. Another cost factor is related to a larger risk perception from insurers and banks on the construction

industry in Brazil that should be taken into account, according to Bruno Pereira.

Companies that led PPP contracts are on hold today, and according to Radar PPP, it is expected that a new set of companies with healthy balance sheets, relevant construction capacity and technology join the market.

In Bruno's analysis, the last challenge is the public debate. If knowledge production and sharing is carried out in an organized, efficient fashion, the speaker believes that the press would cast a more positive light over the projects. "The negative impacts of PPPs in the Brazilian press cannot be underestimated", he said.

EMRE AYKAR CHAIRMAN, CONFEDERATION OF INTERNATIONAL CONTRACTOR ASSOCIATION

"USING EXPERTISE, DYNAMICS AND ABILITIES OF THE PRIVATE SECTOR, PPP CAN DELIVER HIGH QUALITY CONSTRUCTION, BETTER OPERATIONAL PERFORMANCE, BETTER RISK SHARING AND COMPLETE WORKS WITHIN SCHEDULE".

In the panel dedicated to global trends in PPP, the Confederation of International Contractor Association's chairman, Emre Aykar, explained the partnership models in execution in Turkey. He leads a group of companies in charge of building a \$ 1 billion tunnel under the Bosphorus Strait in Istanbul.

The work is for cars only and aims to reduce to 15 minutes the time people spend in traffic to cross from the Asian side to the European side. In some hours, a trip from one point to another can take two hours.

Today, only a metro line travels under the Bosphorus. The 5-kilometer tunnel will pass by the south of the Bosphorus Strait, and will have two lanes in each direction. The project has a sponsor, the French company that will execute it and government authorities tracking the execution.

By law, the Turkish government can make loans longer than 15 years. However, for this project, due to its feasibility and sponsor's trust, an 18-year loan was possible to acquire. A Korean bank and an export insurance company also from Korea are partners, in addition to some local and international banks that helped to collect all funds required.

The financing and warranty project, awarded by the well-known magazine Euro Money, Thomson Reuters and other entities, was supported by the European Development Bank and comprised a simple warrant juxtaposition structure. The Turkish government went to the trouble of writing a letter compromising itself with the banks financing the project to honor payments in only four years, as opposed to the 18-year schedule of payment determined for the project, if it did not see the light of day.



International Meeting Infrastructure and PPPs

APOIO



PARCEIROS



REALIZAÇÃO



Seven trade banks, two multilateral institutions and two Exim-Banks provided the financial structure. Plans were approved by city councils so to reduce risks of delay during the work and to incorporate the new structure to the cities routine.

Banks signed agreements directly with the Turkish Treasury and the Ministry of Transportation. Turkish transportation authorities, the National Police and the city of Istanbul also signed documents aiming to raise the business predictability.

The tunnel is as high as a five-storey building and is 100 meters deep in some segments. The German machine in the construction is operating under a pressure of 11 bars. "This is a unique project in the world", said CICA's chairman.

Two thirds of the work is ready, and the remaining 2.500 meters are being built.

In addition to the tunnel, Turkey has four PPPs in progress today; the third bridge over the Bosphorus, also connecting Europe and Asia; Istanbul's third airport; a highway connecting Gebze and Izmir; and the Bilkent integrated healthcare campus.

The goal of the third bridge over the Bosphorus is to free traffic for the other two bridges. There will be four lanes for the highway and

two tracks for subways, all measuring 60 meters in width.

"We expect that by the end of 2016, it is operational and the company can get the money invested back and earn profits in seven years", said Emre Aykar.

After building two airports by means of PPP, Turkey is building a third terminal in Istanbul using the same model. Investments are expected to reach \$ 10 billion for the construction and later the company in charge of the work will pay more 850,000 Euros to the Turkish government to operate the airport.

The highway from Gebze to Izmir, both important financial centers in Turkey, is 427 kilometers long, with 43 kilometers for accesses. The highway passes through 45% of Turkey's GDP. All infrastructure works will cost 10 billion Euros.

The project comprises a 2.6 kilometer suspension bridge (the fourth largest suspension bridge in the world) with toll fee around \$35. Despite the high amount, the bridge reduces distance in 25 kilometers - calculating oil prices and the time saved, all will prefer to pay the toll fee.

"It is not easy to believe that the drive will pay \$ 35 and be happy, but this shows how PPPs can be created", ended Emre Aykar.

ROGER FISZELSON DIRECTOR-GENERAL, CONFEDERATION OF INTERNATIONAL CONTRACTORS' ASSOCIATIONS (CICA)

"TODAY, RULES ARE NOT SYNTHETICALLY, SIMPLE OR OPERATIONAL".

Invited to present an overview on international Public-Private Partnerships, Mr. Roger Fiszelson, Director-General, Confederation of International Contractors' Association (CICA) said that around \$57 trillion will be invested in new works by 2030.

Out of this total, \$ 1.1 billion will spent every year in transportation, and water-related projects will demand the same amount on a yearly basis. Telecom will receive \$ 400 billion every year. Social infrastructure will demand \$ 1.2 billion per year. Oil and Gas will receive \$ 750 billion every 12 months. Mining will get \$ 350 billion.

For Housing alone, investments will total \$ 4.1 trillion every year. According to Mr. Roger, the current spending average in infrastructure as a proportion of

GDP is 3.8% and the gaps in economic infrastructure are evaluated in \$ 15 trillion to \$ 20 trillion until 2030.

"The lack of efficiency in public investment, due to failure in determining real needs and the lack of best practices are factors causing problems and challenges to be faced", he said.

The world has seen good and poor PPP and grant experiences in the last few years, and the 2008 financial crisis proves that it is necessary to enhance how governments prepare, discuss, and hire private companies through these instruments, according to Mr. Roger.

Such improvement shall not be limited to projects. According to the CICA director, is necessary to evaluate the social and economic returns of investments in





infrastructure to allow for a realistic view of costs and benefits involved. Based on this assumption, governments need to change how the account for such expenditure, changing the accounting methods to add them to public accounts. In other words, a bridge should not represent simply an expense in relation to GDP, but a future economic benefit by reducing transportation times and freight prices, for instance.

CICA's director said that "grants and other PPP models cannot solve these problems alone, but can provide significant investments". For this, he believes that it is necessary to compare traditional grants against other PPPs and reduce costs, once partnerships manage to better equalize risk sharing among all participants in a venture: companies and the public sector.

Cost reduction methods mentioned by CICA's director include adopting best practices, such as contract models that have worked in other countries, more legal security for protecting transnational investments and a deeper discussion with society on the need and the return of projects for the daily activities of the country and population.

At project delivery, he also recommended adopting policies to reduce approval, permitting and the purchase or expropriation of land as some of the factors that can speed up processes. This can also be achieved by clearer public tender rules.

"Infrastructure is important to countries and it should be part of a country's growth plans," said the CICA's director.

Mr. Fizeslon believes that development banks and international entities, such as the International Monetary Fund and the Bank of International Settlements, shall review their position on infrastructure projects, allowing for a better risk suitability by those banks and consequently, easier funding for projects.

Another need is to develop instruments in capital markets, so that the so-called "debt buyers" - institutional investors acquiring company or project-related bonds - can include these securities in their portfolio, providing liquidity and financing for the sector.

As for the public sector, it is necessary, according to the CICA's director, to incorporate more complex calculation on infrastructure projects so that governments can invest supported by the future return that the work will bring to the country's GDP.

He also said that rules for Public-Private Partnerships are many times not simple and operational, which makes PPP hard to understand for politicians and public employees. In this regard, in order to achieve good PPP projects, it is necessary to qualify all individuals involved in the process and to replicate models that have worked in other locations. CICA itself works in this field by discussing with the private sector from several countries a simple, understandable approach for financial and operational structures involved on infrastructure PPPs.

FERNANDO LAGO INFRASTRUCTURE COMMISSION, INTER-AMERICAN CONSTRUCTION INDUSTRY FEDERATION

"PPP IS A VERSATILE INSTRUMENT AND ITS SUCCESSFUL APPLICATION DEPENDS ON THE IMAGINATION AND EXPERTISE OF PUBLIC AND PRIVATE PLAYERS INVOLVED IN EACH PROJECT".



Fernando Lago, Coordinator, Infrastructure Commission, FIIC, discussed recent experiences and perspectives for PPP in Latin America. Due to the region's fast development in the last years, Latin America faces huge gaps in infrastructure requiring investments, and public-private partnerships could help to solve such bottlenecks. However, according to Mr. Lago, the lack of a full legal framework, the scant expertise from authorities and companies, financing issues and undeveloped financial markets are the current obstacles for the region.

During his exposition, Mr. Lago presented data on PPP and infrastructure in Latin America. 268 PPP projects were completed around the world in 2012, corre-

sponding to a total of \$ 73 billion in investments. Half of these projects are located in Latin America.

The UN Economic Commission for Latin America and the Caribbean (Cepal) estimates that the need for investing in infrastructure is at 6.2% of the GDP every year until 2020. However, the investments averaged 2.7% of the GDP in the last decade. In 2012, which was a good year for infrastructure investments in Latin America, the region spent 3.49% of the GDP combined, according to Cepal.

Infrastructure gaps in the countries of the region are caused by the fast development in the last years, added to factors such as improvement on quality of

living and more cars in cities. This context created infrastructure needs, ranging from telecom to leisure.

For Mr. Lago, PPPs are critical to relieve poverty and develop countries. "A critical argument in favor of PPPs is that they support global investment efficiency by sharing risks among players, allocating risks to the parties who can best bear them", said Fernando Lago.

It is possible to find some basic conditions for PPPs to have success in Latin America, currently. Among the main needs are adopting of a suitable legal framework and to rationalize projects, in order to make them profitable and technically suited to the environment where they are in.

Furthermore, it is necessary to expand the use of good practices among all involved in PPPs. This demands qualification of the government to promote, analyze and bid partnerships, by the bidder's seriousness and technical and financial capacity, and the effectiveness of the regulation entity. "Meeting these conditions is not only possible to apply PPPs to large national projects, but it is also useful to apply them to modular, smaller, shorter term projects", said the FIIC's coordinator.

Using PPPs for mid-sized or small projects is also beneficial, as they attract local investors. Such projects make regional players to compete and generate employments and develop companies in the region

There still are financial issues, related both to the political risk and to project financing methods. Fernando Lago argued that PPPs are good investment due to their characteristics. This is because despite demanding much time for construction, these projects have a long lifecycle and can be used by several generations.

PPPs also link investor's remuneration to the real economy. For instance, counter payments in megawatts or by toll fee. "PPPs should become soon the main investments for pension funds and insurers, as they need security and are interested in long-term results connected to the real activity to protect their capital from inflation," said FIIC's representative.

By assessing financial conditions for funding infrastructure works, he highlighted that despite the global financial crisis, financial assets are growing at a

fast pace in the last years, and today their stocks represents more than twice of the world's GDP.

Furthermore there are some examples of successful PPPs. It is the case of Line 4 of São Paulo Metro, with a \$ 240 million investment from the Inter-American Development Bank (IADB), and the Atotonilco effluent treatment plan in Mexico. The plant has capacity to serve 12 million people, treating 23 cubic meters of water per second.

More examples are the 955-kilometer long Amazonas Norte Highway in Peru and Porto Maravilha in Rio de Janeiro. The latter shall receive \$2.1 billion in investments, which was mainly financed by the selling of Potential Additional Construction Certificates (Cepacs).

Other successful examples were hospitals in Toluca and Tlanepantla, in Mexico, Hospital do Subúrbio in Salvador, hospitals in Ciudad Victoria, Mexico, and the Ribeirão das Neves Prison Complex in Minas Gerais, Brazil. Furthermore, PPPs were used to build public restrooms in India and an energy plan in Rwanda, from methane that is captured from the bottom of a lagoon.

Fernando Lago reviewed the results from a survey conducted in 2014 with 23 FIIC members on PPP experiences in Latin America. Respondents included members from 11 countries, seven out of them with PPP experiences, four with none and two without a specific PPP legislation.

All respondents agree that there are infrastructure gaps in Latin America, and 96% said that PPPs can help to solve the problem. The survey also shown that 68% of respondents said they faced issues by obtaining licenses and all believe that a legislation model would be useful. Such model could be proposed by CICA, the UN or multilateral banks.

Diverging opinions were found on the usefulness of a specific law for small PPP projects, but there is a consensus that a specialized government entity to manage PPPs is necessary.

The need for contracts to add long-term renegotiation mechanisms was almost a consensus among respondents. Preferred dispute resolution mechanisms would be mediation for 41% of respondents, arbitration for 34% of respondents and international

arbitration for 13% of respondents. No respondent pointed that a foreign legislation would be best for this situation.

On the participation of foreign companies to PPP projects, most respondents said that they should

create joint ventures with local companies, respecting minimum shares in many cases. Only 29% of respondents argued that local participation should not be regulated. Also, 61% of respondents affirmed that local providers shall have a special mechanism to defend themselves from grantee's bankruptcy.

QUESTIONS

During the Q&A, Bruno Pereira was asked about how to encourage the private sector to invest in Interest Manifestation Procedures (IMP), as many times the public sector interrupts the project. Mr. Pereira said that Brazil used IMPs intensively for a period. The market wanted to invest at that time, but now we are experiencing a "hangover" as many of these projects never progressed to the public consultation step.

Lessons learned are that the market is not willing to spend money with ill-prepared IMPs. In his opinion, companies are careful. They will keep investing, but under a thorough analysis.

Emre Aykar was asked about controlling entities in Turkey and how they operate in relation to PPPs. He said that Turkey does not have specific regulation entities, and the role was assigned to Treasury by government. Problems are directly communicated to the relevant ministries and the issue is negotiated.





S ON THE THEME

LONG-TERM FINANCING MARKET AND THEIR SOURCES



Brazil is experiencing a hybrid context, in which many local and international investors have resources and interest in financing infrastructure projects with good financial returns, at the same time it needs to reduce the participation of BNDES and develop its capital market. That was the tone of debates under the topic "Long-term financing market and its sources".

Representatives from the private sector, financial system and the government agree that it is necessary to draft good projects and warrant systems to allow for a more diverse financing of projects, with investors inputting resources through infrastructure bonds and BNDES taking a supplemental role.

The Ministry of Planning's Executive Secretary Dyo-go Oliveira presented data on economic restrictions Brazil faces today. He highlighted that the dependency on BNDES financing is a risk due to moments like this: lacking room in budget to keep the same amount of inputs to the development bank, the government may indirectly cut the work flow by adjusting public accounts. For this reason, according to him, it is necessary to encourage selling corporate debt instruments, such as infrastructure bonds.

Mr. Oliveira also listed PPPs in progress and others that the government is planning to launch soon. Projects for ports, airports and highways were mentioned.

The consultant Vincent Piron, Director of Strategy and Investment, Vinci Concessions, spoke about how to certify that the projects will be attractive to all players

in a PPP. According to Mr. Piron, it is necessary to check profitability and the social interest of a project at the same time.

Piron said that there are currently investors willing to finance projects, but the warranty system must be improved. "One of the methods to get this money is to structure projects well. In this regard, the first thing is not to dream to build something big, but to approach people's needs and how they can pay", he said.

Gaetan Quintard, Head of Project Finance, BNP Paribas Brasil, was the last speaker and he ran into the BNDES historical role in infrastructure projects in the last years, showing indexes that prove that the institution is the largest provider of financing. However, the situation is changing, which will require more sophistication from investors and will force them to search for supplemental sources of financing.

In his panel, Mr. Quintard also told the difficulties foreign investors face in infrastructure projects in Brazil, when revenue is in local currency but their costs are in foreign currency.

DYOGO OLIVEIRA EXECUTIVE SECRETARY OF MINISTRY OF PLANNING

"WE NEED TO DEVELOP NEW INSTRUMENTS AND MECHANISMS, AND USE THE BNDES MOBILIZATION CAPACITY TO STRENGTHEN PRIVATE SECTOR'S ROLE IN THESE PROJECTS".

As the 7th world's largest economy, a strong, growing and developing consumer market, a middle class representing 60% of the 200 million population and a GDP per capita of \$ 11,000 place "Brazil in a mid-level position with good growth possibilities" in the coming years. This assessment is made by Dyogo Oliveira, Executive Secretary, Ministry of Planning, who reinforced the local economy potential amidst the recessionary context that economists expect for this year.

The country is world leader in sugar, coffee, orange juice, and ethanol. It is the world's second largest exporter of corn, soybean, the third largest manufacturer of airplanes. It is the world's largest meat exporter and the fifth largest exporter of cotton. It has the world's fifth largest market for medical equipment, it is the largest exporter of chicken, the third largest market for computers, the fourth largest market in clean and renewable energy and the world's fifth largest market for mobiles, cars,



and TV equipment. Also, Brazil is the fifth largest recipient of foreign direct investments.

For the government, Brazil has a solid economy based on a regime established 15 years ago - the so-called macroeconomic stability tripod: inflation target regime, floating exchange rates and a fiscal policy aiming to stabilize debt and ensure it is sustainable over time. According to the official, Brazil owns a huge potential credit market that has been strongly expanding in the last years.

According to Mr. Oliveira, international reserve levels are comfortable and external vulnerability is low. "Brazil has shown resilience in the last ten years, mainly against international shocks and crisis", he said.

The official admitted Brazil is experiencing restrictions that have led the government to adopt hard expense constraints and public revenue increases, by means of higher taxes.

According to him, the government is now working to reduce subsidies on BNDES credit loans by raising the Long Term Interest Rates and by changing fiscal goals.

"Expenses will be reduced by R\$ 85 billion and considering the ad-hoc contingency, revenues were increased by R\$ 24 billion, due to higher taxes on cars, cosmetics, and fuel", said the official.

In relation to the Federal Administration account primary result evolution, Mr. Oliveira said that a trend started in 2008 to reduce government's fiscal efforts that ended in a negative result equal to 0.6% of the GDP, last year. For this year, the official expects a positive result to generate a primary surplus of 1.2% of the GDP, which means a reversion of 1.8% of the GDP in terms of improving the public accounts.

The credit market expanded in the last years, reaching 55% of the GDP in 2015 from 30% of the GDP in 2007 - a period when the Brazilian economy also expanded. According to the official, such

growth is observed mainly in consumption-oriented credit and very little was destined to long term investment and financing. Real estate credit in Brazil jumped to 8% of the GDP from 1.5%.

The official mentioned as the main financing sources in Brazil IPOs (R\$ 15 billion), equity participation funds (R\$ 1 billion) and bond issuances (R\$ 3.6 billion). Real estate certificates totaled R\$ 2.2 billion; real estate investment funds, R\$ 4.7 billion; and FDC issuances, R\$ 1.8 billion.

According to Mr. Oliveira, these amounts are small when compared to investment size. In 2014, the capital market represented R\$ 29 billion in financing sources for long term investment, which is high but far from the R\$ 188 billion loaned by BNDES.

In the official's view, this means that Brazil is still very dependent on BNDES. However, infrastructure bonds are gaining traction, not at a high level yet but it is a market with significant growth and volume.

One of the largest problems in the Brazilian secondary market is the lack of liquidity. Infrastructure bonds have performed better, achieving 3.5% liquidity (volume of trades in relation to the stock) at the end of March Infrastructure bonds comprise priority projects approved by government. There is a total volume of R\$ 172 billion in approved projects, which may be translated into issuances in the future.

According to Mr. Oliveira, the Brazilian insurance market is strong and growing, with assets worth more than R\$ 600 billion, and a health insurance market worth R\$ 90 billion. This is important to infrastructure, as a large insurance market would have potential to accept risks from infrastructure projects.

VENTURES

On infrastructure projects, Mr. Oliveira highlighted that studies for four highways shall be completed by the end of June, and soon a new call for proposals will be made. For railways, the North-South Railway is at the final stages and West-East Railway and Transnordestina Railway are being built. Transcontinental Railway, connecting Lucas do Rio Verde (MT) to Campinorte (GO) is under IMP process.

For airports, the official said that a new round of grants would include at least four airports. On ports, the government is awaiting a decision from an accounting court for the grants. There are 39 ports approved up to now, representing R\$ 10 billion in investments.

For Mr. Oliveira, challenges for the second round lie on modeling, legal security for granting process-

es, solving issues related to the process itself and choosing projects.

According to the official, one of the most pressing issues in the Brazilian financial and capital markets is the difficulty to adjust financing instruments terms with the period required to finance long term investments. He argues that it is necessary to develop new instruments and mechanisms, and use the BNDES mobilization capacity to strengthen private sector's role in these project. Another point that has to be enhanced in order to expand the private sector's role is the legal and institutional security.

For the official, Brazil has the opportunity to leverage experiences from other countries and to cooperate with international entities to improve project development. "There is the need to develop in this field, many institutions are not properly equipped and investors ran away", he said.



VINCENT PIRON DIRECTOR OF STRATEGY AND INVESTMENT - VINCI CONCESSIONS



**"I AM CONVINCED THAT WE
NEED TO DEVELOP A NEW
GRANTING SYSTEM AND
GET DISTANCE FROM THE
TRADITIONAL MODEL"**

It is necessary to develop a new granting system to get distance from the traditional model and add a larger number of companies. For Vincent Piron, Director of Strategy and Investment, Vinci Concessions, when one says that the State does not have money, it would be appropriate to say that the modern society organization leads the State to provide social protection and not to investments. It is a matter of resource allocation.

In France, last highways built yielded millions to the government, and if these were built under private finance initiatives, they would have cost millions. In Russia, a highway was 100% financed with local resources, users were from the region, taxes were paid by dwellers, and the investment was calculated taking into account the payment ability of people, according to their needs.

Before saying that the private partner will finance the work, it is necessary to know who is going to pay and if it is really profitable to investors. He argued that all Public-Private Partnership approaches are considered in terms of services and not only in physical solutions.

There are two methods to finance services: by tax collection, when the money goes to the State and then contractors are paid and other where the user pays directly for it. This is an issue that has to be well considered before starting any project, stressed Vincent Piron.

Today there are many people with money that would invest, if given proper warranties. "One of the methods to get this money is to structure projects well. In this regard, the first thing is not to dream to build something big, but to approach people's needs and how they can pay".

Other element that needs to appear in discussions between governments and companies is that people want services and not physical objects, in his opinion.

In order to know which investments are profitable, it is necessary to combine social, financial, and budgetary standpoints. "This is rarely done and many grants are simply paid for through taxes, and sometimes one pays much more than what was originally agreed", he ended.

GAETAN QUINTARD HEAD OF PROJECT FINANCE, BNP PARIBAS BRASIL

"IN THE CURRENT SITUATION, INVESTORS MUST BECOME SOPHISTICATED TO ASSESS RISKS AND WORK WITH BANKS"



The importance of BNDES in infrastructure investments was one of the topics covered by Gaetan Quintard, of BNP Paribas, in his speech. He highlighted the bank's role in financing today and outlined perspectives for 2015 and 2016, considering the smaller role BNDES will take on projects of this kind.

Mr. Quintard mentioned a ranking from the Brazilian Financial and Capital Market Entities Association (Anbima) that showed that BNDES financed 76% of all projects executed. According to him, the bank became the main source of financing in 2009.

Private Banks joined the market in recent years by granting bridge-loans and short term financing for companies until they acquire the final investment. In 2013, for instance, private banks accounted for 51% of loans through transfers, which is a risky activity.

The third group of players is the capital market. According to Mr. Quintard, infrastructure bonds were increasingly used by 2012, despite such securities were used by Grupo Odebrecht in 2010. In 2014, according to Anbima's ranking, 30% of projects used infrastructure bonds.

This context shall change, though. Due to fiscal adjustment, BNDES will finance no more than half of a project costs, forcing investors to search for alternate sources.

As a means to encourage the use of other financing methods, such as corporate bonds, government will restrict the use of Long Term Interest Rates in BNDES loans that would be available only for investors issuing infrastructure bonds.

Currently, the capital market can work together with BNDES, but many challenges remain. Today, the market capital is only marginal in infrastructure projects. He is doubtful if the tool can serve projects requiring issuances above R\$ 1 billion.

Another challenge is to convince investors to migrate their resources from Treasury bonds and bank investments, with high returns in the short term, to invest in large infrastructure projects. It would also be interesting that banks get resources in capital markets to transfer to projects - a mechanism that Nelson Barbosa, Minister of Planning, confirmed that is under government analysis.

It would be important to expand pension fund's role in infrastructure projects and attract foreign investors. "We understand that this would increase greatly the volume of resources available for these projects", he said.

As for foreign investors, the speaker mentioned that exchange rates are an issue. This is because foreign investors would input resources in dollar or euro but infrastructure projects have revenues in local currency. The solution would be to ensure part of the revenue in dollar.

This would be possible in ports or airports. "Perhaps it would be possible to create revenue in dollar for these projects and thus, debts also denominated in dollar, and then invite foreign investors", he said.

The third challenge involves the operation of private banks, which provide bridge-loans. Today, banks are "shy", reducing the amount loaned to companies.

But the BNDES role in projects is still important, even if smaller. In his opinion, with such movement capital markets would expand, possibly developing new financial products.

Capital markets are unsure as for BNDES financing, for instance. Due to volatility, variations may occur during the proposal delivery in an auction and the issuance of bonds by companies.

Thus, the speaker believes that investors shall become sophisticated to be able to assess and work with these risks.

Finally, the speaker remembered other state-owned banks that may finance infrastructure projects, such as Caixa and Banco do Brasil. A possible alternative source of financing would be multilateral banks, such as Inter-American Development Bank and the International Financing Corporation, associated to the World Bank.

QUESTIONS

The first question was asked by Luiz Fernando from CBIC, about how to attract new investors and foreign capital.

Dyogo Oliveira highlighted that the Brazilian financial system has R\$ 6 trillion in assets, which can be directed to investments. The problem, according to him, is that this money is allocated in short term bonds, with liquidity and profitability.

Oliveira said that the country needs to develop infrastructure bonds and to create a new instrument focused on banking inputs. With the possibility of getting funding at a lower cost, financial institutions would also make loans under lower interest.

A new round of investments is required, in his opinion, both for local and foreign investors. As for local investors, he said that it would be interesting to increase pension fund and insurers share, as they are used to have more exposure to long term investments.

As for foreign investors, the challenge is to find some yield gain that justify migrating from public bonds to private bonds. "Foreign investors will be interested to join as shareholder as opposed to buying debt", he said.

In Mr. Oliveira's opinion, foreign investors need much more information. He announced that the



government will create a communication and relationship tool with these players to facilitate the conversation and understanding projects.

Next, the official mentioned hedging issues, which are hard to tackle in his opinion. According to Mr. Oliveira, Brazil currently has a large hedge market, but it is hard to find swaps with terms beyond 4 or 5 years.

However, he used the egg and the chicken analogy: perhaps the instrument is not available because there is not much demand. He believes that the hedge market will develop as there are more foreign investors joining the long term financing market.

Answering the same question, Gaetan Quintard said that due to his experience at BNP Paribas, he realized that foreign investors follow some rules and methodologies that, when not followed, make them invest in Europe or the United States than in Latin America.

According to the speaker, foreign investors pursue security when investing, if possible transferring risk to third parties. The risk that is unpleasant to investors, according to Mr. Quintard, was mitigated by BNDES up to now.

The second question was asked to Dyogo Oliveira, about the reasons why the Fund and Warranty Brazilian Management Agency did not take off yet.

Oliveira answered that the government is discussing the entity within the context of fiscal restrictions. "We are not fully convinced at this time, but it is clear that it is difficult to create the warrant fund, which would be in charge of covering non manageable, non securitizable risks", he said.

According to him, this is a topic that will become more evident as the capital markets increase their role in infrastructure projects. This is because the financial investor do not usually accepts risks related to building, overhead and engineering, and will look for mitigation methods.

BUSINESS OPPORTUN MEETING WITH THE V



...ITIES IN INFRASTRUCTURE
...WORLD

WARRANTIES ON INFRASTRUCTURE PROJECTS



In order to make Public-Private Partnerships a reality all over Brazil with low risks and high economic and social returns, it is necessary that companies and government follow best practices carried out internationally, create reliable warranties and perform studies that reduce risk to a minimum.

These were some of the findings presented at the next to last panel of the International Infrastructure and PPP Meeting, which was joined by Carlos Zveibil, CEO of Ponte di Ferro group, Marc Frilet, partner-director of Frilet Société d'Avocats, and Adelaide Motta de Lima, representative from the State of Bahia Development Agency (Desenbahia).

Using personal experiences as example, their presentations showed in practice how warranties are critical for a PPP to see the light of day properly.

From a business standpoint, Mr. Zveibil said that barriers include delays in financing approval by BNDES and the difficulty to work with private

banks or to find foreign partners that understand Brazilian reality.

Marc Frilet, by his turn, added a perspective from the foreign investor, highlighting that Brazil needs to replicate successful experiences abroad as foreign investors will analyze the best conditions to invest and they could not find them in Brazil, they will invest somewhere else.

Finally, Adelaide Motta de Lima, representative from the State of Bahia Development Agency (Desenbahia), presented the context for PPP contracts from a public sector point of view. She told the issues found to operate the State of Bahia Warrant Fund for Partnerships, established in 2012.

According to her, as the Fund is relatively new, simple issues as enroll the Fund into the Tax Payer Registry, creating composition mechanisms and take care of accounting were found.

Check the presentations below.

MARC FRILET PARTNER-DIRECTOR OF FRILET -
SOCIÉTÉ D'AVOCATS LAW FIRM

"IT IS THAT SIMPLE. WE PICK PROJECTS THAT PROVIDE THE BEST CONDITIONS FOR EXECUTION. THAT IS HOW ONE ATTRACTS INTERNATIONAL INVESTORS: THE BEST SYSTEM IS THE BEST COUNTRY FOR ONE TO INVEST".

To attract more foreign investment for Public-Private Partnerships in infrastructure, government and companies have to learn and replicate internally the best international market practices in relation to increasing warranties and reducing risks.

That was the main advice given by Marc Frilet, from Frilet Société d'Avocats. He submitted his vision from a 30-year experience, during which he worked in 50 large projects totaling approximately 50 billion Euros in investments.

Based in such experience, he reinforced the view that the foreign investors aim to allocate resources in low risk countries and where warranties are real, institutionalized and organized.

"It is that simple. We pick projects that provide the best conditions for execution. That is how one attracts international investors: the best system is the best country for one to invest", he said.

According to Mr. Frilet, a system is best as warranties provided to investors are higher. "Warrants will always be the driver for economically developing grants and PPP projects. It has been like this for centuries. Railroads in the United States and Canada would not have been developed as they were without warranties", he signaled.

It is necessary to estimate all possible kinds of financial return for investments so to attract capital, relating such evaluation to the project economic feasibility, which raises interest of joining a project. Provide projects with realistic, understandable warranties also prevent severe losses to society.

"Warranties are heavily criticized as they can benefit much more the private sector and generate public financing issues", said the expert, emphasizing that in some cases, whole cities went bankrupt when a country benefited the private sector in ex-



cess, putting the public interest in the background. "Warranties are not simple questions".

Such complexity, according to Mr. Frilet, can be reduced by laws protecting both parties and carrying studies focused on the feasibility of the work.

"In the last 50 years, much legislation was drafted to ensure foreign investment. Protection laws, investment

laws, treaties, bilateral and multilateral agreements". According to him, more than 300 bilateral agreements were signed to ensure a certain level of warrant.

Such laws are subjected to a thorough, detailed analysis by foreign investors before any investment or bid is made. The country receiving the investment must be prepared to provide such information.

PREVIOUS STUDIES

The best way to assess the social and economic feasibility of works is to carry out studies before even bid projects. In the other hand, the lack of good studies increases the risk of financial imbalance during the contract's lifecycle, which may harm both the company involved and the public accounts. Mr. Frilet mentioned a couple of examples.

The first one took place in India, during the construction of a plant. Studies were carried out disregarding local laws, which caused the hiring of unprepared professionals to perform tasks established in the contract. The cost of training workers on the local laws was borne by PPP managers.

Another case was building a highway connecting a Chinese town to an airport. The lack of studies on the impact of works and potential demand of highway users prevented that the parties anticipate a real growth of 50% on traffic. As there was any warrant for this type of contingency, once it was not established in the contract, the State had to inject money due to lack of previous planning.

"Thus, it is pretty hard for any government to make informed decisions on warranties", he said. "But one thing is certain, the best definition for PPP is: Preparation, preparation, preparation. This is really the most important thing about PPPs. Most of them are ill-prepared".

BENCHMARKS AND GOALS

Once previous studies are necessary to properly assess project costs and prevent losses during a PPP lifecycle, but such studies are also complex ones, a solution would be using good benchmarks, such as best practices being used internationally.

From the onset, it is necessary to make clear who is in charge of such studies, what type of technical capacity these professionals must have and the scope of the survey. According to Mr. Frilet, standardizing studies and the method how they are performed are critical to mitigate risks.

"Studies can analyze population's real needs and relate them to political interests in order to build a highway, for instance", he said.

Previous studies also help to make sure if the State is able to pay for the work, in addition to assess social and economic impacts by means of realistic projections and estimates on the future behavior of the user of such equipment, whether it is a highway or an airport.

To figure the importance of such aspects, a study carried out to understand why 18th-century bridges in Paris were so expensive than current ones found that the overprice was due to the desires of kings and queens. In other words, there were no studies on user demand or the social and economic impact that these bridges would cause, if they would support economic growth or if they would be only adorning the Seine.

In other words, the lack of planning proves that many times, unthinkable questions may affect the price or the schedule of a work.

"A sensible analysis must be conducted, considering all aspects involved. It has to answer issues about building a bridge and if the investment will return in less than 20 years. It has to review technologies to use, which infrastructure will compete with the new one, how much traffic it

will bear and what the consequences are after the opening. All these things are important when the decision of go live with the project is to be made", he said.

The team's profile is important during the drafting of studies. "It is necessary to have local and foreign professionals, in addition to experts that manage to understand the project's routine, in order to obtain a great study", he noticed.

CONTRACT WARRANTIES

Mr. Frilet said that he also learned on his long professional experience to have clearly stated how the so-called "contract warranties" will work.

"These warranties are a critical driver for foreign investments in Brazil. Contract warranties are much more important than any other warrant", he added. "What do I mean? I mean that while negotiation the contract, you have to assess the risks that probably will happen and put them on the negotiation table, in order to build a perfect framework to prevent, mitigate or share such risks".

Such risks that should be addressed include environmental permits, land use regulation, and eventual taxes that may be levied across the contract's lifecycle.

"It is important to carry a fiscal analysis in a PPP process so that you are not taking too much risks in relation to taxes and you can determine a threshold in the contract", Mr. Frilet argued. "You have to determine everything in order to know how to provide financial compensation and thus, reduce risks. We also have mechanisms to prevent risks. These are critical issues to assess real risks in a real project."

NEXT STEP

After these studies, the proper measurement of risks involved and adding warranties, it is necessary to check the contract clause on who has the liability in case of not honoring warranties.

"We need to analyze how those in charge of warranties behave, which kind of risk standard and matrix they use and if they have used them in similar occasions in the past", Mr. Frilet recommended, adding that it is necessary to make clear who is going to solve the problem. "It is very important to do this in order to your project has a chance to own these warranties. Based on this, you will see if your project has a chance to be served with warranties".

Investors and their lawyer teams assess projects according to these criteria, which may lead

to a decision to bid or not for that contract. If a project fails to raise interest from the private sector, it is recommended that the public sector look for alternatives.

"If there is not a chance, do not suffer for that. Review it, get back to the start or choose another project. From this, what we propose is to enhance warranties to reduce the number of risks", he said. "In order to choose well, we determine quality standards for projects. We need financial preparation, and this is critical everywhere".

Mr. Frilet also observed that the correct procedure is to draft a risk matrix with criteria, standard and instruments that allow for an excellent delivery of service.

CARLOS ZVEIBIL CEO, PONTE DI FERRO GROUP.

"THE CIVIL CONSTRUCTION INDUSTRY IS GOING THROUGH A CRISIS NOW AND FACE DIFFICULTIES TO ENGAGE IN A PPP, TO RENT AN ASSET OR GRANT".

With real life examples and issues, Mr. Carlos Zveibil, CEO, Ponte di Ferro Group, said that those venturing into PPPs face obstacles ranging from a long wait for financing approval by BNDES to the difficulty to find foreign partners.

Mid-sized companies can also face issues to engage in tenders, as many times, the size of projects offered by the public sector allows for the participation of large companies only.



OBSTACLES

Financing for large infrastructure works involving complex, long-term projects has always been depending on BNDES resources in Brazil. This is an obstacle that has to be managed and many times, it involves negotiating warranties together, so that smaller companies can bid for contracts.

Some projects to which Ponte di Ferro has engaged illustrate this problem well. Projects range from building a bus terminal to the development of underground parking facilities in São Paulo.

The first example shows the issues of finding more liquid warranties. An example is the execution of a project to renovate three bus terminals and to build another urban terminal in São Paulo. BNDES financed R\$ 15 million, but it was necessary to provide a farm worth \$ 20 million as a warrant.

The small number of projects and the obstacles for smaller companies to engage in projects offered by the public sector created more difficulties for the industry in relation to the situation

experienced few years back. The participation of the company in the partnership for the sanitation system in the city of Araçatuba, in the state of São Paulo, perhaps would not be possible if the company did not get BNDES resources for the \$ 15 million project.

RISKS

The Ponte di Ferro experience proves the need for planning and agility when it comes to engage in partnerships with the public sector, due to the rules currently in effect in Brazil.

In the case of a partnership with the city of Jaú, in the state of São Paulo, the company obtained an international financing equivalent to R\$ 12 million. The project, however, was halted, and the company had to bear the costs that arose from exchange rate variation. "We borrowed the money and in five years I owed R\$ 24 million to the exchange rate fluctuation", Mr. Zveibil said.

Another risk is concerned to the projects themselves. The company engaged in a project to build underground parking facilities in São Paulo, this time with its own money. The option to invest the company's own capital was made due to the fact that there was a large risk in the construction and because there was not insure suited to a project of that size at the time.

SIZE

Some difficulties faced by smaller companies could be eliminated by adding partners - preferably from abroad. Another option would be to issue corporate debt in the form of infrastructure bonds - instruments that link part of the investor remuneration to revenue obtained from the PPP - this would eliminate the dependency on public credit from development banks such as Caixa and BNDES.

Increasing competition and expanding the number of companies involved in tenders could also be encouraged by the public sector, by reducing the size of projects offered by auction.

"Today, we are contractors and we are well worse in terms of balance. I got few things to show and get a good rating", said Mr. Zveitel.

Currently, the company is engaged in sanitation projects, where payment for private costs is made by the service's end user: citizens and companies in the city. But before arriving to the point where the operation pays for the project, it is necessary to overcome another barrier that is common when it comes to PPPs.

Studies made by banks as Caixa and BNDES to calculate future financing takes eight months in average. "In this situation, who is the mayor or public manager that will wait for eight months for a company to start working in a project bid yesterday? The public sector wants us to start working now", he said.

To solve this deadlock, it is necessary to borrow from private banks until financing is finally granted by development entities. However, these loans from private banks demand high interest rates, as well as the submission of real warranties. "I am a mid-sized company with restrictions for real warranties", the businessman assessed.

Currently, tenders are designed to not allow for mid-sized companies to participate. "Why only large companies shall get financing? There are some 96,000 contractors in Brazil. Why do only 10 or 12 get the attention of financing entities?", Mr. Zveibil asked.

To allow for more companies to participate, Mr. Zveibil highlighted the importance of investment funds and consortiums. "PPPs do not gain traction because the macroeconomic situation do not allow for it", he concluded.

ADELAIDE MOTTA DE LIMA PROJECT STRUCTURING SUPERINTENDANT, STATE OF BAHIA DEVELOPMENT AGENCY (DESENBAHIA)

"EVERYTHING IS SO DIFFICULT BECAUSE WE DO NOT HAVE MODELS TO FOLLOW"



Adelaide Motta de Lima, representative from the State of Bahia Development Agency (Desenbahia), presented the context for PPP contracts from a public sector point of view. Adelaide Motta de Lima told the difficulties to create the State of Bahia Partnership Warrant Fund (FGBP), that can be called upon in case of public sector default and how the Fund supports the development of projects.

Difficulties started at simple things, such as enrolling the Fund in the Tax Payer Registry (CNPJ) and to determine the accounting management. Many of the obstacles are overcome simultaneously to the mechanism operation.

"The Fund is causing us so much trouble because we have no model to follow. It is working and we have already honored warranties", she said. "This is a construction. There is no one we can ask and we have to find everything by ourselves."

The State of Bahia currently has six PPP contracts signed and Desenbahia's job is focused on Fonte Nova Arena, Hospital do Subúrbio, in Salvador, and in the metro system in Salvador and Lauro de Freitas.

The PPP for the construction of the marine outfall, hired by the Bahia Sanitation Company, has no participation by Desenbahia and determined the receivables of the grantee as warranty.

Desenbahia's institutional model allows the company to make payments, at the same time it prevents issues as that a warranty provided by the agency would eventually convert into court-ordered payments, which take longer to be honored by the public sector.

Desenbahia is a semi-public company and its funding mechanism was defined by Law # 11.477 of 2009. The law authorized the transfer of 12% of the State Participation Fund to the agency.

Part of these resources is deposited into a Desenbahia account in Banco do Brasil, where each PPP gets the money from. "This payment mechanism is so important that has become a critical part to support project finance for all these projects", said Mrs. Lima.

Three years after the definition of inputs to the agency, a new law raised the transfer of funds to 18% of the State Participation Fund, although it has not happened yet. Injecting 12% of the resources transferred from the Federal Administration to the State of Bahia has been enough. In April 2015, the transfer totaled R\$ 51 million.

FUND

The FGBP was created with a forecast of up to R\$ 750 million, and minimum balance required of R\$ 250 million. The fund was created by Law # 12.610 of 2012. However, by the end of that year, it was realized that the original regulation had forecast a fund composition method, so Law 12.912 of 2013 allowed transfers of up to 5% of the State Participation Fund to another fund, Fundese, which is also managed by Desenhahia.

Fundese make contributions to the warranty fund when necessary. Fundese, by its turn, receives inputs from the State Participation Fund.

"The FGBP aims to deliver warranties to obligations taken by any direct or indirect entity of the State of Bahia for public-private partnership contracts if forecast in a project previously approved by the PPP management council", she explained.

Companies can call the fund 15 days after public sector's obligations are due.

"If the public partner has accepted the obligation but did not honor it, the private partner can call Desenhahia and charge the warranty fund", she said.

QUESTIONS

When asked about the state's Accounting Court relationship with Desenhahia, Adelaide Motta de Lima answered that half of her time is spent responding to the control entity. "To make things differently is a lot of work, because you have to invent and then explain many times", she said.

Next, Marc Frilet explained that in the case of Bahia, a lot of creative work took place so it is important to share experiences. As for project structuring, the lawyer said that it is important that the involved parties are aware of the economic and financial scenarios. This way, it is important that the project has resources and the private sector is clearly able to generate profits. "From there, it is possible that we can structure the financial portion in an acceptable way", he said.

Mr. Carlos Zveibil was asked about the methods to structure project finance and what advice he would give to small and mid-sized companies that want to enter the PPP market. For him, the best thing in the structuring phase would be to draft a project in which payment warranties would be so strong that no one would be afraid to invest. He highlighted that the best scenario would involve warranties due from the grantee but those being paid for by users. As in highway toll fees, for instance.

On increasing the participation of small and mid-sized companies in public-private partnerships, Mr. Zveibil said that in São Paulo, several companies formed consortiums and today, highways built by these groups are among Brazil's best. He argues that the consortium model should be applied for new projects in several sectors, such as highways, airports, and sanitation. In his opinion, it is necessary that the companies see themselves as partners and not owners of the project.

Mr. Zveibil also stressed the importance of CBIC in this process by developing seminars, exchanging experiences and submitting suggestions to the public sector. "We can multiply experience and knowledge, and CBIC has done just that", he said.

The last question was addressed to Mrs. Lima, about how the dispute resolution mechanism if the agency fails to make a payment. The representative from Bahia answered that it has not happened yet. The discussion of this issue would be under the PPP contract. PPP contracts signed in the State determine arbitration and mediation as dispute resolution mechanisms.

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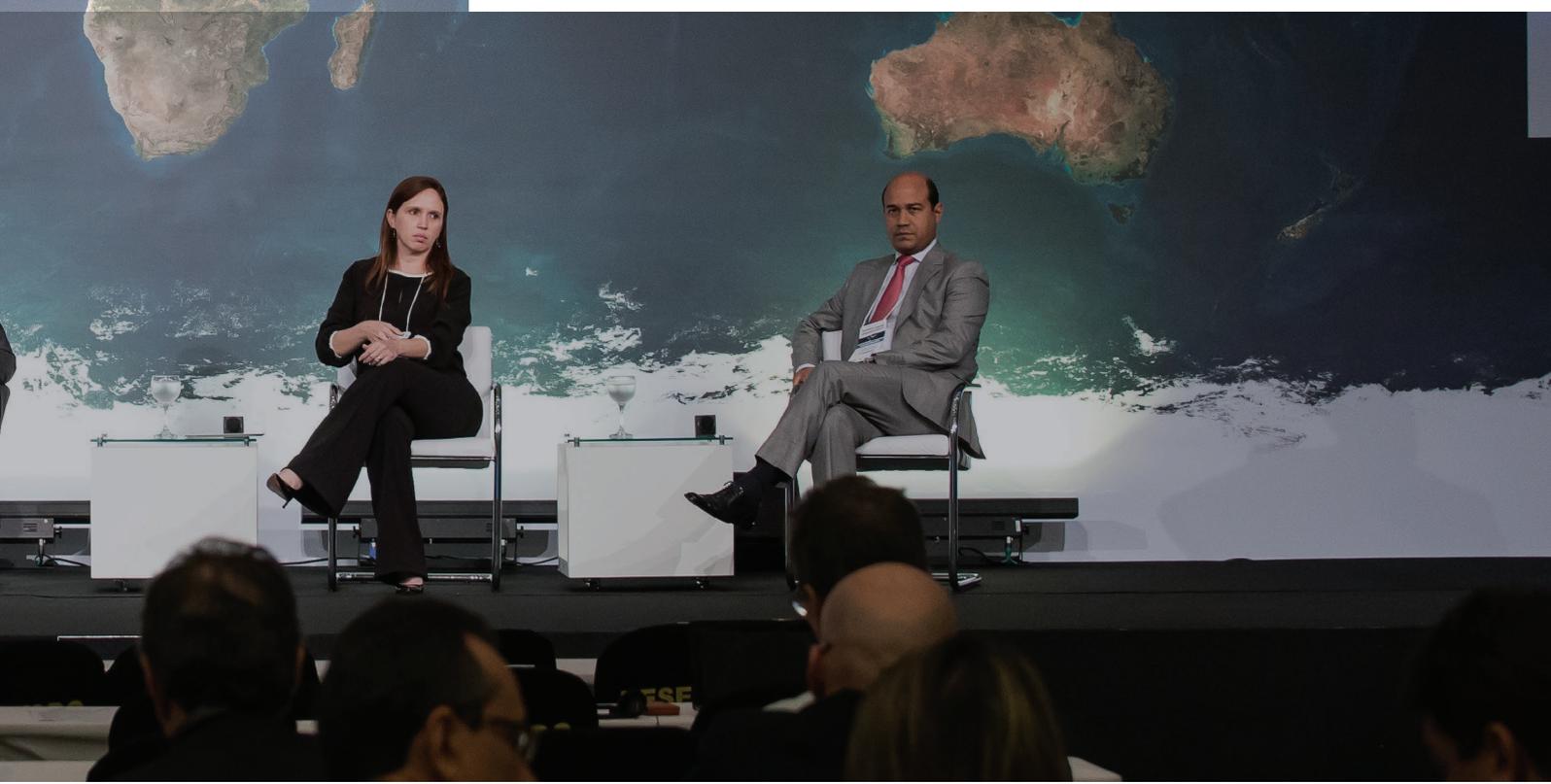


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**OPPORTUNITIES IN PPP -
SUBMISSION OF PROJECTS AND
OPPORTUNITIES TO INVEST**



Among lessons conveyed by the several speakers at the International Infrastructure and PPP Meeting, none was so quickly applied in practice as the experience dissemination. The event's last panel covered real-life cases of public-private partnerships in progress. Professionals from four Brazilian states explained projects in Education, Parking Facilities, Lightening, and the building of an Administrative Center.

They talked about problems with accounting courts and the Public Defense, or issues caused by low budgets and legal restrictions. Solutions for these issues were discussed, ranging from increased communication to changes to original projects.

André Gomyde, president, Vitória Development Company, explained the PPP project for public lightening of the State's capital. The project demands R\$ 80 million to R\$ 100 million in investments, from which R\$ 20 million will be invested by the city.

The State's Accounting Court and the Public Defense questioned the company if there is really the need to put the private sector in charge of public lightening. The solution was to add to the project the requirement to implement LED lamps and to provide wireless Internet for the whole city.

From the State of Paraná, Elton Augusto dos Anjos mentioned a project for building parking facilities. The private sector would manage the facilities and would receive parking fees and removal fees as counter payment.

The government expects that the partnerships saves R\$ 7 million per month to the State. The grant covers 542 facilities on several cities in the state.

Next, a PPP project in Education, being elaborated in the city of Uberaba, was presented. The city's Project and Financing Secretary, Glauber Faquineli Fernandes, expects that the project is made available for public consultation by June and is effectively operational by the first half of 2016.

Mr. Fernandes told that the idea for the PPP was born from meetings with representatives from the Education sector, who told him they had no time enough to define the courses for the classroom and to draft teaching materials.

The last speaker, Viviane Bezerra, PPP Superintendant for the State of Piauí, presented a project in progress to build a new Administrative Center that will host several government entities. The expectation is that the new headquarters allow for savings and to serve a large number of users.

She mentioned an important point on the elaboration of the project: during 2008 and 2015, laws were passed to regulate PPP-related procedures, such as the State's managing fund and the procedure for submitting Interest Manifestation Procedures.

ANDRÉ GOMYDE PRESIDENT - VITÓRIA DEVELOPMENT COMPANY

"WE ARE NOT ONLY TRANSFERRING PUBLIC LIGHTENING ASSETS TO THE PRIVATE SECTOR; WE ARE ALSO ADDING VALUE TO THE CITY"

The first panel's speech was given by the representative from Vitória, who explained the changes to the city's public lightening project that will be carried out by means of a Public-Private Partnership. According to Mr. Gomyde, the goal is to make Vitória a "smart city" with LED lightening and Wi-Fi internet.

Interested companies are conducting studies for the project, but the company expects that the PPP is launched by February 2016. The idea to improve the lightening system was born after the State's Accounting Court and the Public Defense questioned the need to involve the private sector in these changes.

The legal framework changed in January 2015, when Resolution # 414 from the Energy National Agency (Aneel) was posted, transferring the responsibility for public lightening assets to cities.

The change caused budgetary problems to cities, which prompted Vitória and other cities to address the problem. In Vitória, the solution was to structure a PPP, which attracted 11 companies interested in executing feasibility studies.



The company estimates that the PPP contract has a lifecycle between 25 and 30 years, demanding R\$ 80 million to R\$ 100 million in investments. From this total, the city will input R\$ 20 million from the Contribution to the Public Lightening Service Budget (Cosip). The tax provides the city with R\$ 18 million, but the money can only be used on public lightening.

The company faced a lot of issues after releasing the PPP. Both the State's Accounting Court and the Public Defense questioned the need to involve the private sector on providing the city with public lightening services.

"I met the technical area of the Accounting Court for three hours, explaining them how the PPP was structured and the transparency of the process", Mr. Gomyde said.

Furthermore, the questioning also involved the fact that the city already has a valid public lightening contract that is due to expire in less than two years. The city replied that the current contract will be almost expired when the PPP starts operating.

As the company is also in charge of Vitória's science and technology areas, the company decided to improve the project by adding tools to save energy and make Vitória a "smarter city" than it is now.

Thus, the project determined that LED lamps and high speed Wi-Fi internet were deployed all over the city. "Such changed justified the PPP to the Accounting Court. "We are not only transfer-

ring public lightening assets to the private sector; we are also adding value to the city", said the company's president.

LED lamps live longer than traditional ones and consume less energy. The replacement will increase security and may decrease car accidents, in the city's view.

Currently, interested companies are studying the feasibility of the PPP. These studies shall be delivered by June 8, and the tender's notice shall be ready by August 15. Public consultation shall be made until September 30, and the definitive tender's notice would be posted by October 5.

If this schedule is complied, the contract would be signed by January 30, 2016, and the PPP would become operational by the next month.



ELTON AUGUSTO DOS ANJOS PUBLIC-PRIVATE PARTNERSHIP
COORDINATOR, STATE OF PARANÁ



"IN THE SECOND YEAR, THE PARTNER WOULD HAVE A RETURN OF R\$ 79 MILLION, REACHING R\$ 179 MILLION BY THE LAST YEAR OF CONTRACT"

Public-Private Partnership Coordinator for the State of Paraná, Elton Augusto dos Anjos presented the PPP project for parking facilities, which may save R\$ 7 million per month to the state. Currently, there are 542 parking facilities spread across the state, serving 53,000 vehicles and apprehending 12,000 cars on a monthly basis. The PPP determines that management of such parking facilities are transferred to the private sector for 25 years, offering as counter payment parking and removal fees. "In the second year, the partner shall have revenues of R\$ 79 million, reaching R\$ 179 million by the last year of contract", said Elton Augusto dos Anjos. In addition to spending with maintenance, the government of Paraná identified problems to auction cars as most of them were depreciated and their sale would not pay for the car owner debts. Another issue was the need to keep public workers, such as policemen and Highway Department agents physically present in the facilities.

"This is a structure that is very expensive to the State", he argued. All parking facilities are located in State-owned properties. To satisfy demand due to the amount of cars apprehended, however, it was neces-

sary to rent properties, which also raise public expenditures with the service.

Upon a survey on the topic, carried out by the Institute of Economic Survey Foundation and a study by KPMG, which validated whether assumptions were based on market rationale, the state's Management Secretariat authorized the project. It would be a public-private partnership, but it was later changed to a grant under a request from the governor. The project involves five public entities: Military Police, Civil Police, State Highway Patrol, Highway Department and Transportation Department. The initiative is being currently modeled. It is expected that a law is passed by June 15 to allow the State to grant the parking facilities. By June 30, the government expects that digital minutes for the competition are ready. Today, according to the PPP Law, the state of Paraná can spend up to R\$ 1.8 billion in partnership projects with the private sector. According to him, there is an R\$ 45.7 million contract that compromises 0.26% of the net current revenue of R\$ 37 billion. For the government, such result shows that there is room in the budget for carrying out PPPs.

GLAUBER FAQUINELI FERNANDES CITY SECRETARY
FOR PROJECTS AND FINANCING, UBERABA (MG)

"WE UNDERSTAND TODAY THAT IMPROVING THE PUBLIC
MANAGEMENT REQUIRES PPPS".



The partnership on Education executed by the city of Uberaba determines investments across 30 years in the delivery of non-pedagogical services to schools, such as construction and maintenance. R\$ 150 million will be spent only at the first five years of contract.

"We understand today that improving public management necessarily requests PPPs", said Glauber Faquinelí Fernandes, Secretary of Projects and Financing of the city of Uberaba.

The city has 318,000 inhabitants and reviewed seven PPP projects, from which only one was proposed

by the city - all remaining projects came from the private sector. Among the proposals, there are initiatives in Education, Health, Solid Waste, Bus Terminals, Public Lightening, International Cargo Airport, and a new City Administrative Center. Currently, Uberaba is prioritizing projects in Education, Public Lightening and the new Administrative Center.

City counselors are reviewing a law proposal creating a city PPP program.

The idea to create a partnership in Education was born after weekly meetings with professionals from the sector. These professionals said that they

were so busy with activities not related to Education that there was no time to define subjects to be taught in classrooms and to elaborate the pedagogical material.

"These complaints were heard in all meetings. For this reason, we looked for ideas and decided to run a PPP to build new schools and maintain and renovate existing ones", he said.

The city wants to take the project to public consultation between May and June, and then launch the tender by September. This way, it is expected that the PPP is deployed by the first half of 2016.

As for warranties offered to the project, the goal is to consider some properties that the private sector may be interested in, in addition to a percentage of federal funds transferred to the city and a percentage of the state tax transfer to the city. "The goal is to identify warranties that will meet the private sector demands for each project."

The city has faced two major problems until now. The first is related to the city's revenues, currently at R\$ 724 million - the city must comply with legal limits for federal warranties. According to legislation, PPPs can only be used by cities where expenses with projects do not exceed 5% of the city's net current revenue in the next 10 years.

"If I already have ongoing expenditures with Education, and I am not bringing in new expenses, then why does such money is within the 5% limit?", he asked.

The second challenge is cultural, according to the official. It is necessary to talk to people who will be directly affected by the PPP, that many times ask why transfer some works to the private sector.

The Executive branch also needs to support the project. "I have a clear idea that if the PPP is not good for the government and the private sector, then it will not happen", said the Secretary.



VIVIANE BEZERRA PPP SUPERINTENDANT, PIAUÍ

"THE IDEA IS TO OPTIMIZE THE DEVELOPMENT OF SERVICES AND REDUCE EXPENSES"

In the state of Piauí, one of the PPP being currently structured is focused on building a new Administrative Center to host several entities from the state administration. The idea is that the partnership cut rent costs in 12%.

The PPP was possible due to legal changes introduced since 2008. Subsequent laws regulated the State's management fund and the procedure to submit Interest Manifestation Procedures.

The new Administrative Center will replace a building located in the south of Teresina, the state's capital, housing 12 from 59 entities of the state administration. There are 8.900 public workers in these offices, but the building is from the 1970s, requiring

repairs and lacking expansion possibilities. Also, the building costs R\$ 228 million per year to the government.

Due to current financial constraints, a PPP project to build a new Administrative Center was proposed to host 30 entities. The new headquarters would house 10,000 public employees, with a daily flow of some 20,000 people.

For the new building, the government requested that it is located within urban perimeter, preferably in some area with a transportation infrastructure able to support the commute of people. The contract has a 25-year lifecycle. "The idea is to optimize the develop-



ment of services and reduce expenses", said Viviane Bezerra.

The government expects a 12% reduction on costs currently borne with the current Administrative Center. By October or November this year, studies on the project shall be forwarded to the State's Management Council.

Despite the law regulating PPPs in the state is in effect for ten years now, not a single project was executed or listed as priority by the government. The situation changed by the passing of a new legislation and improvements in the state's economy.

UPDATE OF LEGAL FRAMEWORK

The law instituting the PPP program in the state had issues. "The 2005 legislation was upgraded in 2008 to add some basic instruments, such as managing fund, management council, warranty fund and warrant modeling".

In 2012, law # 6.157 was passed to establish the scope of the State of Piauí Development Agency to manage resources in PPP contracts. Decree # 16.002 was passed in 2015, allowing the use of Interest Manifestation Procedures.

The State of Piauí has a population of 3.2 million, its GDP is growing above the national average in the

last years, reaching R\$ 33 billion in 2013. At the same year, the State's net current revenue reached 6.2 billion, and it is expected to reach R\$ 7 billion this year and R\$ 9.12 billion next year.

Viviane Bezerra's department comprises an economic-financial department, a technical department and a legal department. The team is in charge of conducting studies and assessing PPP project's feasibility, sending them to the Management Council next.

QUESTIONS

The first question was asked to Viviane Bezerra, from Piauí. She was asked if it would be possible to include in the PPP the possibility of building the Administrative Center outside Teresina's urban perimeter.

She replied that areas outside the urban perimeter are far from downtown. She also affirmed that properties able to house 10,000 public workers are being considered. "There is a larger area by the side of the current administrative center, and we could think of expansion and renovation", she said.

The second question covered Decree # 8.428 of 2015 that regulated the Interest Manifestation Procedure. One member of the audience would like to

know if the rule would necessarily imply in the review of state and city legislation for PPP and grants.

André Gomyde, from the state of Espírito Santo, answered that for Vitória, the specific legislation is already complying with the decree, but it would be desirable that the cities change their legislation as well.

The last question was asked to Élton Augusto dos Anjos, from Paraná. The participant was asked whether the State grant will be divided into parts. He said it will not be made due to risks. A division could make some locations to become less interesting in financial terms than others.



International
Infrastructure



ENTREVISTAS

Meeting
and PPPs

ENTREVISTA COM **ADELAIDE MOTTA DE LIMA**

PROJECT STRUCTURING SUPERINTENDANT, STATE OF BAHIA DEVELOPMENT AGENCY (DESENBAHIA)

ACCOUNTING IS SOMETHING NOBODY LOOKS TO AND NOBODY LIKES TO DO, BUT IT MUST BE DONE. BUT TO TREAD ACROSS NEW LAND WORKS THIS WAY.

Are there entities like Desenbahia in other States?

Yes. According to Central Bank's Resolution 2828 of 2001, each State can create its own development agency. I am not sure, but I would say that some 20 States have development banks or agencies today.

You mentioned that you faced issues to create the State of Bahia Warranty Fund. Could you give more details about this?

There is the federal warranty fund. There was a law to create it, but it is not working today as it has not guaranteed any project. So our hardship consisted in getting to know what we have to do. Is a regulation necessary? Is it bylaws? Does it have to be registered in the Tax Payer Registry? We don't know if there is another warrant fund around, so we have to research. Later, on accounting, Desenbahia's finance management had to figure out what do for composition mechanisms, for instance. When I say that other fund will contribute when our fund gets to the minimum level, how these inputs are accounted for? Accounting is something nobody looks to and nobody likes to do, but it must be done. But to tread across new land works this way.

Is there any other challenge you faced?

Project finance is the words of the day. It is already known in theory, but it is hard to do project financing in the real life. You need a large set of projects as in

Project Finance; the financial institution is paid by the project itself. So it must be ensured that the project's outcomes will be directed to the lender, with contracts. We are trying to develop this in Desenbahia, but it is hard. This exists in Brazil, but there are few examples.

How is your relationship with the State's Accounting Court?

I spent a lot of time answering their demands last year. You have to explain. The auditor visits, studies, asks and then you have to answer again when he drafts the report. As a citizen, I defend their work. I believe that control entities have their role and I am not criticizing their operation. But as a manager I guess they increase our workload. If you want to do something, you'll have to explain later how you did it.

What is the questioning made by the Accounting Court?

They ask how it works, how the architecture is. In the case of the Warranty Fund, I was asked by the Accounting Court but I answered generally. Their questioning was related to other issues I did not mention here, which were also innovative. They basically try to understand and back what we have done. They put a great deal of importance on respecting the rules. You have to prove that it was done in a certain way because it is how the contract determines it to be done, always showing the rule and what you have done. You have to show that both things are related, which piece of legislation backed that management or that way of doing things.

ENTREVISTA COM **ANDRÉ GOMYDE**

PRESIDENT - VITÓRIA DEVELOPMENT COMPANY

It was much talked in other panels that cities are launching more PPPs. What are the difficulties you have found?

The reason for this is that all cities have seen their revenues fall, so they have no other source of resources. BNDES money is over, as the World Bank's, so the private sector has become an excellent source of financing for cities. You get money from a private party and will pay it anyway, but within a relationship built with that private party. I believe that this is what sets PPP apart. The city usually structures a project that the market is not interested in. Sometimes resources are available, but the project is not feasible and the city has to return the money. As negotiations with the private sector take place before the project, things are likely to move on faster. So, less revenue, the search for new financing sources and a shorter time-to-market for projects are the main drivers for city PPPs.

Could you tell more about the Energy National Agency's resolution transferring public lightening assets to the city? How did the resolution encourage PPPs?

The Agency's resolution was a reason for complain for many cities, and it has become mandatory in January 2015. The lightening asset comprises the pole, wires passing over it, the arm and the fixture. The pole and the wires are grantee's property, but the arm and the fixtures are now owned by the cities. The grantee is not paying for that anymore. Another cost was passed on to the municipalities, which already lacked the ability to do a good management. This was the driver for encouraging PPPs. The private sector has a

good warranty, which is the Contribution for the Public Lightening Budget, paid for in the energy bill. It is an excellent warranty as the company invests being aware that there are resources to pay for that investment. The risk is very small, which increases the feasibility of the project.

Are other cities carrying on PPPs for lightening?

The city of São Paulo was the first among large cities to do a PPP for this, but São João do Meriti in the state of Rio de Janeiro and another small city, with 5,000 inhabitants, had done this before.

Is the city of Vitória talking to other cities to share PPP experiences?

Not so much. We had talks with São Paulo to learn from their experience, but the companies themselves tell us how to proceed and they take experiences from one city to another. That is something nice in a PPP, to allow the private sector to talk with the public sector in a constructive way. This is positive.

What are the main difficulties faced until now?

Initially, public employees were not aware how a PPP works. The reaction was that the public sector would sell the assets to the private sector and this would lead to the end of public services, which is not true. In our case, we could have done this PPP last year, but it took us one year to launch the tender as we had to convince people internally. After that, the Accounting Court and the Public Defense made questions, but this is normal. The hardest part was to convince our employees that that was really important and would not cause harm to the city. And we won.

ENTREVISTA COM **BRUNO PEREIRA** PARTNER, RADAR PPP

How can Brazil progress PPP contracts today?

We have not started it yesterday. There are 76 contracts signed based in a 2004 law, some administrative grants and some sponsored grants. If we combine this with other contract type that is heavily used in Brazil, that is the ordinary grant, we have thousands of contracts. We have been building this strategy for public service delivery since the 1980s and the great challenge for us to move on successfully with more PPPs in Brazil is to give institutional ability for the public sector, so it can understand demands in public interest in its table and manage to structure solutions through PPP. For instance, a city secretariat can identify at the beginning of the term that in the last couple of years more babies were born that expected, and so tell the mayor that daycare facilities have to be built. In these cases, a bid is traditionally made to hire Engineers for the design, another bid to hire contractors, a selection for Teachers and more bids to purchase furniture, computers... There is one administrative process for every input. In a PPP, you make a single bid and select the group of companies that will build, operate and maintain such facility. This model has the potential to spend public resources more efficiently as it organizes the supply chain in a cheaper way, considering the same service level. But for the public sector migrate from contract in the model of Law 8.666 to public-private partnership ones, it has to be qualified.

Is the current legislation a bottleneck for new PPP contracts?

I don't think so. Figure how much a city spends cutting trees in 35 years. It is certainly more than 20 million. What might become a bottleneck are banks becoming less willing to finance at long term. In this case, it would be necessary to engage private banks on financing. The challenge is not in the law per se, but on how to apply it.

In addition to increase the role of private banks, how can one benefit from the current economic situation?

The strategy of public spending as determined by Law 8.666, the public sector shall have the resources

available to spend. In a PPP, the rationale is the opposite: the winner of a bid puts its own capital, shareholder's capital and the bank's capital and when the asset is operational, the public sector starts paying for it. In this fiscal situation, the PPP becomes attractive because the public sector has fewer resources available and if it borrows from banks it can provide more services and get a window of some months to start paying. Of course it depends on the project. But during a fiscal adjustment, satisfy demands through PPPs can create a space where the shareholder invests and builds and then government starts paying.

Could you summarize your speech?

First, we have a relevant experience; we have contracts signed that have not been fully investigated. Everyone interested in this market has to do their

THIS MODEL HAS THE POTENTIAL TO SPEND PUBLIC RESOURCES MORE EFFICIENTLY AS IT ORGANIZES THE SUPPLY CHAIN IN A CHEAPER WAY, CONSIDERING THE SAME SERVICE LEVEL.

homework and generate knowledge on our experience. Second, one cannot ignore that this is a messy situation, but there is a vibrant private sector willing to invest. So if the public sector gets ready and study good projects, this is going to be the perfect moment to make these companies comfortable to engage in the process. Furthermore, if macroeconomic issues are solved by the federal administration, the issue of encouraging private banks to finance at the long term will be solved. Public needs are plenty

ENTREVISTA COM **CARLOS ZVEIBIL** CEO, PONTE DI FERRO GROUP

You mentioned the advantages of having BNDES support to warranties. Why is this important?

This is a means to get money from the market, to get easier and plenty financing for several projects. We can have more companies engaged and more works delivered. The example from Bahia is very interesting and shall be followed in order to get good warranties from the State to get financing. But we need projects that are not depending on real warranties. When a real demand of R\$ 300 million is demanded, for instance, I will only be able to engage in a project if I have this money.

What do companies lack?

A poorly structured project cannot see the light of day. The private sector has to engage in serious projects, as this is a service delivery. Another important thing is to properly assess costs, so that no one is fooled. I always say that if someone drives through a highway full of potholes, this person will complain about the government. But if the highway is privatized and is full of potholes, then the company will lose the grant. The project has to be properly structured so the company cannot complain about losing the financing. Furthermore, mid-sized companies have to form consortiums. In São Paulo six companies formed a consortium to compete for highways.

In your speech, you mentioned in not be depending on BNDES and Caixa; how is it possible?

To become free from these banks it is necessary to have the capital market as an option to finance projects. I don't need the BNDES if I can access the capital market. If I have a highway with toll fee or a bus terminal charging boarding fees, perhaps I don't need the BNDES. BNDES and Caixa must have

a role that is purely social, in which it is not possible to be made and financed by the private sector.

How do you see the BNDES diminished role in financing as announced by the bank?

This is going to be a problem for governments. They expected money for the My House My Life housing program that will not arrive. States are also concerned because they lost revenue and some tax payers are in default. In these cases, we cannot think that governments can break free from Caixa's

PROJECT FINANCE, BOLDNESS FROM THE PRIVATE SECTOR TO DO THINGS AND GETTING SMALL AND MID-SIZED COMPANIES TOGETHER. ALONE, WE ARE JUST A BAMBOO, BUT TOGETHER WE ARE A BUNDLE.

financing. But this is what is going to happen, and poverty will become worse because there will be no source for the money.

Could you summarize your speech?

This is the time to look for alternatives. In my opinion, this means to increase the role of the private sector to do what the State cannot provide. The economic scenario can be an opportunity since trust is given to the warranties provided. I stress that I believe that three points are important: project finance, boldness from the private sector to do things and getting small and mid-sized companies together. Alone, we are just a bamboo, but together we are a bundle.

ENTREVISTA COM **CLÁUDIO PUTY** SECRETARY OF INTERNATIONAL AFFAIRS, MINISTRY OF PLANNING

Currently, we see that many contractors are being investigated by police's Car Wash Operation, and small contractors face obstacles to engage in PPPs. What is the solution for this?

We believe that a partnership rearrangement will happen. Capital does not disappear, it rearranges itself. So, irrespective of whatever the legal process will bring to the industry, the industry will soon or later rearrange by partnering with foreign companies, for instance. Here, for instance, there is a business room and the Chinese are here. Perhaps it is time for CBIC to increase the scale, create consortiums, and find means to engage in international bids. I have asked CBIC: the Brazilian government sits in the board of several international banks, such as the African's, and the Caribbean banks wants us to sit in their board. Why have we seats in these banks, many times just a symbolical participation? Because it provides us with preferential treatment in bids that the huge African bank carries out in Africa and our large contractor companies used to engage in that. Would it be the case to CBIC to organize the industry for this? They could talk with the Brazilian government to see what type of warranty can be provided or any other support they can give. In the other hand, there are leniency agreements under a Federal Accounting Court approval that will allow that individual's legal liability is segregated from the company's survival. So we will experience some turbulence in the next months, but I believe that a new light will shine by the end of the year. Como estão as conversas com o Banco Interamericano de Desenvolvimento (BID)?

How are the conversations with the Inter-American Development Bank?

We have just created a new institution only for private financing in the IADB, and Brazil had a crucial role for that. It is based in the Inter-American Investment Cooperation (IAIC), an institution associated to the IADB. They will create the new IAIC. We are a large shareholder in the institution. The institution was

only created due to the Brazilian presence. Our focus is on PPP. We want them to help us to provide counter warranties to our warranty fund. They sent us an official proposal involving loans to the fund and to take part of the risk even in local currency. We will work on detailing the proposal in the next months, but there are concrete signals from the IADB and I believe that other institutions, such as the World Bank, will follow.

OUR FOCUS IS ON PPP. WE WANT THEM TO HELP US TO PROVIDE COUNTER WARRANTIES TO OUR WARRANTY FUND.

How should the new grant package be?

If the Minister himself is saying that the meeting is inconclusive, one can wonder what I know... People talk about it very superficially. Take highways for instance. Granting highways in the Northeast shall be different from the method used to grant highways in the South, because income is different. A toll fee-based grant is very expensive in the Northeast. In São Paulo, income is five times larger. So the design must be tailored to each region. And I am only talking about highways, federal ones and grants.

Should PPPs or grants be made?

PPPs should be made in some places and grants in others, because perhaps in other locations grants can cause high toll fees, which may be inappropriate. But the decision will be made by the President. There was an initial study that found that perhaps PPPs were suited to the Northeast and keep granting highways in the South and the Southeast, which had worked.

The Federal PPP warranty fund has not been used yet, and there is no federal PPP signed since 2004, right?

I guess the point is: why does PPP not work? It is an issue of risk, precisely. I guess that there are two factors: risk, of which much has been talked, and the second is that when public resources are plenty is more convenient and faster for the public sector to use their own resources, bid, build and operate, as this is a country with a short tradition of project financing. So the President is indicating that she wants to take it seriously.

Does she want more PPP?

Yes.

In a fiscal adjustment, where does PPP fit in?

They become stronger. You see that every time there is a fiscal adjustment, PPPs pop up. That is what happened in 2003. I do not think that we have to make long-term decisions based in short-term contingencies, and I do not think that PPPs can be launched only in short-term problems as well. I guess it is worth that we do not forget PPPs when the fiscal situation improves, so this initiative of grants to be made is very important.

What about railways?

Railways are a whole different world. We had defined that Valec would buy all cargo to resell it, so Valec would manage cargo purchases from the private sector to manage it, but this places a cost to Treasury. This is still pending.

I GUESS THAT THERE ARE TWO FACTORS: RISK, OF WHICH MUCH HAS BEEN TALKED, AND THE SECOND IS THAT WHEN PUBLIC RESOURCES

You said that the situation in 2003 was similar to this one. Why nothing happened since then?

I guess there are two reasons: the first is risk - the warranty fund had resources and the threshold is R\$ 6 billion, but there was not a decision on the management operational model. The problem here is not construction, but public management. The problem is management on a daily basis, but there was not an agreement. We have had several issues. First was the legal framework, second it was assessed that it would be faster and more convenient to use federal budget and, third, there were pure grants: airports, highways and else. Such combined designed was not much feasible until 2012, due to risk. But the companies did not trust.

What have changed now to make PPP attractive?

We need to see if PPPs are attractive. It remains to be seen, but States have launched successful PPPs. The World Cup was a benchmark, especially arenas. We need to assess each case to know what works or not. Europe has a lot of experience in this regard. Considering Europe's experience in railways, for instance, and all experiences where government built and then privatized. In Portugal there is a notorious case, which prompted an official investigation, where some millions of Euros were destined for structuring PPP that failed. So the issue of risk is not negligible, as nobody wants to invest money facing the risk of a default from the State.

Will the railway model be reviewed?

I read something about this in the press. I would say that it is likely to be reviewed, but it is not official, as I do not deal with that.

ENTREVISTA COM **DYOGO OLIVEIRA**

EXECUTIVE SECRETARY OF MINISTRY OF PLANNING, BRAZIL

You have shown that BNDES was a major source of financing for infrastructure in the last three years. Now, government wants to shrink BNDES's role. What are the consequences you expect for the auctions?

Despite an increasing participation from the private sector, BNDES will remain the major source of financing for infrastructure, and the bank is developing mechanisms to encourage projects in which the BNDES finances a portion and the private sector another portion. BNDES works to share project risks.

IF WE COMPARE BRAZIL AGAINST OTHER COUNTRIES IN TERMS OF INVESTMENT, WE SEE THAT BRAZIL IS NOT SO FAR FROM OTHER COUNTRIES IN MACHINES AND EQUIPMENT, AND WE ARE THREE OF FOUR POINTS BELOW IN INVESTMENT IN CONSTRUCTION. AND THIS IS NOT ONLY IN INFRASTRUCTURE, BUT ALSO HOUSING CONSTRUCTION.

FIIC estimates the need for investing from 5% to 7% of the GDP in infrastructure. How much does Brazil plan to invest in President Dilma Rousseff's second term?

It is not possible to say how much, it would like reading from a crystal ball. What we know is that the investment level in the economy is 3% or 4% below what it would be desirable for the Brazilian economy. And we know that this difference, setting investment in machines and equipment apart from investment in construction, lies basically in the former. If we compare Brazil against other countries in terms of investment, we see that Brazil is not so far from other countries in machines and equipment, and we are three or four points below in investment in construction. And this is not only in infrastructure, but also housing construction.

A means to increase legal security, according to companies and the change in legislation, is the mandatory use of arbitration to solve disputes in grant and PPP contracts. How does government see that? I will go to the point: is the government ready to go to the courts if it loses in the arbitration panel?

Arbitration is an interesting mechanism. In the grant area, this is something new that we will try but I can't say much about it right now. This can be one of the institutional improvements we must achieve.

ENTREVISTA COM **ELTON AUGUSTO DOS ANJOS** PPP COORDINATOR, STATE OF PARANÁ

Are there other PPPs for parking facilities in Brazil?

There are no PPPs but grants. The states of São Paulo, Minas Gerais and Rio de Janeiro have granted some facilities, but not covering the whole state. Ours is the first really covering the whole state.

What are the difficulties for developing the PPP?

We believe that this project will see the light of day. Mitigating environmental risks and meeting demands are two sensible issues in this project and we are being asked about them. Granting all facilities in a single bundle is also being questioned. But I guess that granting this service will be an easy job.

The single bundle issue was mentioned many times during the event. Do you think that the size of the bundle can prevent mid-sized companies to compete for the PPP?

We know that some large and mid-sized companies may not compete, but if we look to another issue, there is also the risk that if this project is broken down into smaller bundles, it may not happen at all. Curitiba, Londrina, and Maringá are interesting cities for companies, but other smaller administrative regions might not have any bid at all. This was the rationale behind the single bundle, and it also opens room for private partners to form consortiums and Specific Purpose Vehicles to compete for this PPP. That is the reason for having all parking facilities being granted at once.

Why did you choose for a single bundle?

The reason was the risk. Administrative regions are not clearly defined, and a car apprehended in a certain location it is hard to know where to take it. Likewise, if the public sector gives the same conditions to all, grantees may be penalized for that. One reason for this would be the process economic aspect to have a single bundle that would serve all regions, but also because there are no clearly defined regions, which causes problems to share risks.

You said that this project has a great environmental appeal. How are you dealing with that?

This is a major risk for the project. There are 542 parking facilities, and the process manager is not aware of where many of these are located or what environmental conditions are. The private partner's main challenge is to enter into the process and make it better. There are cars parked in the facilities for 30 years, causing fluids and heavy metals to contaminate the water table or the soil. The state does not plan to simply remove the cars from these facilities and return it to someone else; we want to improve this process. The private partner will be in charge to clean the soil for the devolution, whether it is rented or owned by the state.

ONE REASON FOR THIS WOULD BE THE PROCESS ECONOMIC ASPECT TO HAVE A SINGLE BUNDLE THAT WOULD SERVE ALL REGIONS,

ENTREVISTA COM **GAETAN QUINTARD**

HEAD OF PROJECT FINANCE, BNP PARIBAS BRASIL

Much was talked about the smaller BNDES role in PPP during the event. What does this mean for future public-private partnerships?

It implies first on increasing end prices, as BNDES is a cheaper, longer, and reliable lender. For companies, it implies that they will have to obtain sources of financing to supplement BNDES resources, so they will have to get used to them, get to know them better and assess them. This is going to be more sophisticated and harder.

Which would other sources be?

Capital markets, private banks and in some times, when a project has revenue in dollar, international solutions might be available.

You mentioned during your speech that one of the issues faced by foreign investors is that revenues from PPPs in Brazil are in local currency. What would the solution be for this issue?

I will give you an example: an energy plant, let's say a hydropower plant. Today it sells energy 100% in reais, so it is hard to borrow in dollar as there is a mismatch. We have seen for instance the devaluation going on since the beginning of the year. So it is not feasible to borrow in dollar when your project has revenues in reais. But when 30% of your energy is sold to Vale or Petrobras, both companies with revenues in dollar, the revenues from this sale would allow for having 30% of debt denominated in dollar. So you have a revenue stream in dollar associated to debt in dollar, and revenue in reais with debt also in reais.

Government says that a hedge must be done for a 20-year operation, which is possible, but at a huge risk. The bank providing such hedge takes a huge risk. Hedge basically works this way: if the currency devaluates, hedge can provide you with money to pay your debt, but if the real appreciates against the dollar, the hedged party will have to give money to the bank as it will have many reais to pay for a small debt in dollar. This difference is not profit; it is what the hedged party shall send to the bank. This is a hard risk to take,

so I do not see hedge as a solution. This is a risk I analyze since I arrived in Brazil in 1998, and we have never found a solution for this.

Dyogo Oliveira, from the Ministry of Planning, argued that there is no hedge valid for more than 5 years because there is no demand in Brazil. Would you agree?

I would not. I work in this industry for 15 years, not with infrastructure, but with telecom companies willing to take dollar-denominated debt. This is something you can do exceptionally, but it is a large risk. The only entity able to provide a hedge like this is the Central Bank, which owns assets in dollar.

Another topic covered in the event is infrastructure bonds. How could government encourage this kind of operation? Would it be necessary to provide more warranties?

The thing concerning me is not the warranties for bonds per se, but safer projects. If a project makes an issue and a problem happens, the market is going to be hurt. Every time someone defaults, there is more resistance from banks and investors. Government has to be concerned with the quality of projects and not so much with warranties. It has to be seen how government will structure grants, in terms of reducing risks.

IF A PROJECT MAKES AN ISSUE AND A PROBLEM HAPPENS, THE MARKET IS GOING TO BE HURT. EVERY TIME SOMEONE DEFAULTS, THERE IS MORE RESISTANCE FROM BANKS AND INVESTORS.

ENTREVISTA COM **FERNANDO VERNALHA**

VG&P ADVOGADOS

Many examples of dispute resolution mechanisms were presented during the event. Which one do you think is best?

I have no doubts that arbitration and faster alternative mechanisms for dispute resolution are much more effective and more at the taste of the market than to submit the dispute to the Judiciary. We have a slow Justice, there is paperwork for submitting disputes to a Court and these things are factored in by the market in the bids offered to compete for PPP contracts. So the idea of having arbitration as an alternative dispute resolution

COURT AND THESE THINGS ARE FACTORED IN BY THE MARKET IN THE BIDS OFFERED TO COMPETE FOR PPP CONTRACTS. SO THE IDEA OF HAVING ARBITRATION AS AN ALTERNATIVE DISPUTE RESOLUTION SYSTEM REDUCES TRANSACTION COSTS.

system reduces transaction costs. Both arbitration and other simple, faster system generate more economical proposals as they reduce transaction costs. The market likes informal system as they are faster and more specialized and effective than Justice. And there is another question. In some places local governments interfere in Justice. So if one moves the dispute to arbitration it is likely that such political interference takes place. In my opinion, undoubtedly, it is more efficient to have arbitration councils or even mediation to solve disputes in PPP or grants contracts.

Are there many cases of arbitration clauses or results obtained by means of conciliation that are disputed in Justice?

This dispute resolution mechanism is very new to grants and PPP public contracts. This mechanism is allowed by the PPP law of 2004, but it is all very

recent. As our contracts are new - our contracts are not even 10 years old - we have no legal precedence on the legality of arbitration. This is something we will have to experience to know and we have had no time enough to know it for sure. It is possible to say though is that there have been intense discussions on the possibility of arbitration in administrative contracts. And the Judiciary has a lot of restrictions about this. There is a legal insecurity, which is an economic risk at the end of the day, as this is factored in the proposals submitted to the public sector.

How do Public Defense and Federal Comptroller react to problems?

We still lack legal experience on this, and the Public Defense is not very concerned because contracts are very recent. Traditionally, Public Defense has adopted a conservative stance about this. Which is understandable, as they have to protect public assets, they have to be conservative on alternative dispute resolution mechanisms. I do not support this, I think that alternative methods are the future as they are beneficial to infrastructure projects, since they reduce transaction costs and make a PPP program more efficient. But as I said, I guess we will experience discussions about which cases may be submitted to arbitration even if it is established in the contract. As for some issues involving unavailable rights, there is an understanding that these could not be submitted to arbitration panels. These would have to be submitted to Justice. I guess that this is a concern that will be left for the future, as it is going to be solved only in concrete cases. But I have no doubts that we had fully accepted arbitration for every contract we would have a much efficient system.

What are the most common problems found in PPP contracts?

The risk matrix is the most complex aspect of a PPP contract, the one causing more risks. There is a risk allocation in a PPP contract, which is allo-

cated to the public partner, to the private partners or shared between both. Defining such risk matrix, which is the contract's backbone, is the most important point. The contract's architect, pursuing efficiency, shall allocate risks according to criteria such as economic logic. But, as it is not possible to foresee all risks impacting a contract, and as risk studies are expensive, contracts are made

with gaps. These gaps are the source of disputes. Also, these gaps generate opportunistic behavior between the parties, which generates disputes requiring solution from Justice, arbitration or from alternative methods. In my opinion, the most delicate point in structuring a PPP program is the definition of the risk matrix. The success or failure of a PPP program depends on that.

ENTREVISTA COM **GLAUBER FAQUINELI FERNANDES** CITY SECRETARY FOR PROJECTS AND FINANCING, UBERABA (MG)

What are the key difficulties for executing PPPs in cities?

The key problem is the legal threshold for using net revenues in PPPs. Uberaba, which has a considerable size, has a threshold of R\$ 40 million per year, which is small for the projects I need to execute. Another issue is warranties. The private sector feels insecure at the political action. Terms are of four years and nobody knows what the next manager will do.

How can private investments be attracted?

If we manage to solve the issue of warranties, we will get good responses from the market. What has to be done is to organize internally to get projects done. I am a big fan of PPPs, I do not think they solve

all problems, but these are great contract models that we have to explore well.

Why did Uberaba decided to run PPPs for the social field? How can the private sector be convinced that this is interesting?

There is a huge difficulty for the city to deal with building maintenance, building and the individual bidding process. Things get so confused that the environment is damaged. As the government is prioritizing education, we are trying a solution to solve problems in physical structure, technology and security, so the teacher and the dean are concerned only with what is being taught in the classroom. In the case of Uberaba, we were called by companies, which indicate that there is interest.

Could you summarize your speech?

Well, I can suggest some things for other cities. You need to identify which projects really are of interest for the private sector and the public sector. You cannot implement something that the market will not accept. The goal is to gauge the public and the private sectors interest in these projects. After this, we need to build a solid foundation with transparency to be conducted and successfully completed.

THERE IS A HUGE DIFFICULTY FOR THE CITY TO DEAL WITH BUILDING MAINTENANCE, BUILDING AND THE INDIVIDUAL BIDDING PROCESS

ENTREVISTA COM **PRISCILA ROMANO PINHEIRO**

PPP INTERGOVERNMENTAL NETWORK

What are the benefits for the public sector with public-private partnership contracts?

Gains are safe, transparent contracts and high performance bringing excellence levels that one can demand from a government. Also, it raises government excellence. Thus, the population is better served with proper services at a cheaper cost for States and cities.

Is the current legislation appropriate for conducting PPP contracts in States and cities?

Today, many projects fail due to the lack of governments to invest and also to the lack of legal framework, which limits investment for this type of project. This is the main issue that needs to be figured out so that the number of projects can increase and become more frequent. Also about legislation, States can adjust by passing state legislation to facilitate the usage of the federal bill and allow them to execute new and effective projects.

THIS IS THE MAIN ISSUE THAT NEEDS TO BE FIGURED OUT SO THAT THE NUMBER OF PROJECTS CAN INCREASE AND BECOME MORE FREQUENT.

What is the Intergovernmental Network and what are their objectives?

Our goal is to strengthen States and cities in order to allow us to manage knowledge and share experiences so that all States and cities are able to develop, create innovative projects that bring to the population effectiveness in government actions and projects. PPPs have proven to be an efficient model and a great instrument for the population. In this case, you can offer a product with the best cost effec-

tiveness for the State, as there is a huge progress of these actions, as the result is a gain for society, mainly in terms of transparency and honesty of these processes. This is a gain that cannot be measured.

In your speech, you mentioned that PPP contracts are still very focused in Transportation. How is possible to use PPPs for social investments, such as in Bahia?

Having to decide between building a highway or a hospital is always too difficult, but I believe that States and cities can work on both fronts. The population needs that. Society does not need just highways, metros and urban mobility. We need mainly of essential services, which are education and health. Investment in essential projects are very small in relation to infrastructure projects, so if you bring all these projects to a safer, more successful, more efficient level, you get an overall gain for the population.

Could you summarize your speech?

All States and cities have moved towards grants and PPPs, but each working in a particular way within their silos. The Intergovernmental Network was created to share knowledge, bring experiences and promote communication between these players. Thus we can manage this knowledge and exchange experiences, strengthening projects and bringing more transparency and better results, also taking these projects a level further. The Network aims to unite States and cities to execute better structured and modeled projects by government itself, saving money on structuring and buying ready-made projects.

ENTREVISTA COM **GUSTAVO MASI**

VICE PRESIDENT, FIIC

What is the status of PPP projects in different countries in Latin America?

We always analyze PPP from different countries at our both yearly meetings. We see the positive and negative aspects that every country has. Let's consider for instance, a recent case. I am from Paraguay, where recently a PPP law was passed, and now we are offering public-private partnerships. These events are important to consider global experiences and prevent from committing errors past. This is a critical instrument to make countries progress through the private sector. Otherwise, it is very hard as long-term credit is used and the country's budget is compromised. The private sector has to believe in the country, and I believe that all conditions are given for that, as companies are dynamic, knowledge and agility. That is the way we have to go, overall in a country as Brazil, with a strong economy and private sector. I believe that this can add dynamics and lead to a faster growth of the country.

You mentioned Paraguay. Can you mention PPP examples from other countries?

Peru is conducting its PPP policy very well. Colombia and Ecuador are doing a great job as well. Chile is another great example of PPPs. These are countries that have to mimicked and copied, as they are conducting this policy well and achieving great results.

Which are the sectors where these countries are conducting PPPs?

These are waterways, electricity and highways.

What are the main difficulties that countries are facing?

Some countries lack clarity on establishing a contract between the State and companies, as these documents do not have clauses for dispute resolution. This is very important and that is the way we have to go. When contracts are clearly stipulating all conditions, it is very hard that a PPP fails.

How does FIIC see PPPs in Brazil?

We came here to learn. Despite terrible economic issues Brazil is experiencing, we believe that the country will drive PPP as there is room for developing infrastructure here. In countries like Brazil, with a strong economy, I believe that PPP is the solution.

**IN COUNTRIES LIKE BRAZIL,
WITH A STRONG ECONOMY,
I BELIEVE THAT PPP IS
THE SOLUTION.**

ENTREVISTA COM **HENRIQUE AMARANTE DA COSTA PINTO** SUPERINTENDENT, PROJECT STRUCTURING DEPARTMENT, BNDES

What does BNDES expect after announcing the bank's smaller participation on financing?

Both BNDES and the government's economic policy are doing is to stimulate the private market. In practice, projects will be executed by partnering with the private market. BNDES will still have a relevant role, being a catalyst to make all projects happen and so we can build a private market that can go on with financing. This is the basic idea behind that. BNDES did not shrink financing; it is building a market for that.

TO ATTRACT THE PRIVATE MARKET IS TO LAUNCH AN INFRASTRUCTURE BOND IN THE CAPITAL MARKET, SO WE NEED TO BRING THE PRIVATE MARKET'S KNOWLEDGE TO STRUCTURE WELL THESE PROJECTS.

And what will be made to achieve that?

To attract the private market is to launch an infrastructure bond in the capital market, so we need to bring the private market's knowledge to structure well these projects. The project has to be well structured in order to attract investors. It is a foundation being built to last for the long run.

Your panel discussed the engagement of mid-sized and small companies to PPPs. How does BNDES aim to support these companies?

The current scenario is good, the idea of consortiums is excellent, to break large projects down into smaller ones is also a good one, but not all projects remain economically feasible if they are broken down. I really liked Marc Frilet's presentation, where he repeated the work preparation several times. This is something that cannot be left in the background. Without a good preparation, there is no way to allocate risks, so no market player will accept that risk.

ENTREVISTA COM JÚLIO CÉSAR BUENO

PARTNER, PINHEIRO NETO ADVOGADOS

What are the legal challenges to execute PPP contracts with safety?

The main challenge is political. We have a PPP law since 2004, when it was passed to indicate to the market that the federal government would use it in strategic projects but it did not happen, which generated a very negative repercussion for the market itself. Such law demands that the federal government show the required appetite for implementing these projects. I believe that an important challenge will be when the Brazilian Warranty and Warranty Fund Management Agency can deploy the infrastructure warranty fund. This will be a huge gain for PPPs.

Is the current legislation suited for this?

I guess it works well, it can obviously improve, and there are lessons learned mainly on conflict resolutions. But this is not what is causing delays on adopting PPPs. The barrier is mainly related to warrant thresholds. We need to have a warrant framework that is suited to execute these models at a federal level, which we still do not have and this leads to a smaller appetite from the private sector. We are facing an important moment now, in this new PPP and grant plan that the Federal Administration has indicated that will execute. And if is a robust plan, attracting interest from foreign investors, this is going to be very important. Foreign investors need to have business security, they need to know that contracts will be maintained and also which minimum conditions for warranties they will have.

What is the importance of internal compliance on companies competing for PPP contracts?

Compliance is today connected to the whole infrastructure area. For PPPs, this is not an element that could delay PPPs, as companies alone can adopt that. The anticorruption bill was passed, which happened recently, and there is the public corruption law, and many others. We do not have to add this topic to the PPP law.

Could you summarize your speech?

In order to make PPP advance, it would be important to adopt alternative models for dispute resolution through Dispute Boards, which are dispute resolution panels. These can be adopted in the decision model, which is the so-called adjudication, or the recommendation model. There is a solid and important international working in this regard, which is even recognized by the World Bank. I guess we can use as a best practices model for the industry.

THE MAIN CHALLENGE IS POLITICAL. WE HAVE A PPP LAW SINCE 2004, WHEN IT WAS PASSED TO INDICATE TO THE MARKET THAT THE FEDERAL GOVERNMENT WOULD USE IT IN STRATEGIC PROJECTS BUT IT DID NOT HAPPEN, WHICH GENERATED A VERY NEGATIVE REPERCUSSION FOR THE MARKET ITSELF.

ENTREVISTA COM **NELSON BARBOSA** MINISTER OF PLANNING, BUDGET AND MANAGEMENT

You mentioned during your speech that new investment in grants will be made. Can you provide more details?

We are not announcing projects on an individual basis. We have surveyed existing grants and we are negotiating case by case. We will see if these are possible, as they are not forecast, if there are interest by the consumer, government, and the grantee itself. We are negotiating case by case. There are several methods to remunerate: deadline, fee or government counter payment at the end of the process. This is really case by case, as there are some projects with high fees and other with low fees. There is not a single formula.

You mentioned during the speech that highways already granted to the private sector could receive R\$ 12 billion in new investments. Could you explain this figure better?

These R\$ 12 billion are not for the highways we have analyzed and we have seen potential for investment. There may have others. We are still identifying railroad projects yet.

THERE ARE SEVERAL METHODS TO REMUNERATE: DEADLINE, FEE OR GOVERNMENT COUNTER PAYMENT AT THE END OF THE PROCESS

As for budgetary constraints, is there any number?

Not yet. We will assess this until May 23, and we expect to do this before that. By then we will signal the volume of resources available to PAC. It is going to be lesser than initially projected, but it is still going to be substantial.

Is there any definition on new financing methods for these grants or PPP?

We are discussing it now.

ENTREVISTA COM **VIVIANE BEZERRA** PPP SUPERINTENDANT, PIAUÍ

In your presentation, you argued that PPP can reduce costs. Can you explain how partnerships can deliver savings?

First of all, PPPs optimize the supply chain and service providers. As opposed to the State hiring several players to manage, maintain and operate an asset, only one service provider is hired, with expertise and flexibility both to hire and to execute. This is the PPP philosophy: to deliver services efficiently, differently from contracts based in the model of Law # 8.666 of 1993. In the case of Piauí, there are several properties spread over the capital, each one with its own administrative structure, outsourced staff only to take care of infrastructure, maintenance, repairs in electrical and hydraulics... All of this cost money. We submitted the amount of R\$ 228 million, which is underestimated. There are some components in this cost that have not been calculated yet. There are many things to factor in this calculation.

WE SEE PPP AS A POSSIBILITY TO BE USED ALSO FOR SMALLER PROJECTS THAT DEPENDING ON THEIR REACH, THEY CAN HAVE SOCIAL AND DEVELOPMENT RETURNS MUCH LARGER THAN COMPLEX, EXPENSIVE WORKS.



APOIO



PARCEIROS



REALIZAÇÃO

