



PUBLIC- PRIVATE ALLIANCES

for
DEVELOPMENT

INFRASTRUCTURE

INVESTMENT IN BRAZIL –
PUBLIC-PRIVATE
PARTNERSHIPS AND
CONSORTIAL URBAN
OPERATIONS

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Volume I: Infrastructure Investment in Brazil – Public-Private Partnerships and Consortial Urban Operations

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List of Acronyms

| Sigla | Descrição |
|-----------------|--|
| ABCON | Brazilian Association of Concessionaries of Water and Sewer Services |
| ABGF | Brazilian Guarantees and Fund Managements Agency |
| APPD | Public-Private Alliance for Development |
| BB | Bank of Brazil |
| BDMG | Bank of Minas Gerais Development |
| BM&F | Brazilian Mercantile & Futures Exchange |
| BNDES | National Bank for Economic and Social Development |
| BNDESPAR | National Bank for Economic and Social Development - Equity |
| CAIXA | Caixa Econômica Federal Bank |
| CAPEX | Capital Expenditure |
| CBMM | Brazilian Company of Metallurgy and Mining |
| CEPAC | Certificates of Additional Construction Potential |
| CF | Federal Constitution |
| CND | National Destatization Council |
| CODEMIG | Economic Development Company of Minas Gerais |
| CONFAZ | National Council of Financial Policy |
| CPP | Partnership Company of São Paulo |
| CPTM | Metropolitan Trains Company of São Paulo |
| FGIE | Infrastructure Guarantee Fund |
| FGP | Public-Private Partnerships Guarantee Fund |
| FIESP | Federation of Industries of the State of São Paulo |
| FPE | State Participation Fund |
| GCI | Global Competitiveness Index |
| HS | Suburban Hospital of Bahia |
| IBGE | Brazilian Institute of Geography and Statistics |
| IBPT | Brazilian Institute of Planning and Taxation |
| IPEA | Institute of Applied Economic Research |
| LRF | Fiscal Responsibility Act |
| MGI | McKinsey Global Institute |
| MIP | Private Expression of Interest |
| NitUrb | Urban Development Company of Niterói |

Continuation

| Sigla | Descrição |
|----------------|--|
| OS | Social Organizations |
| OSCIPI | Civil Society Organizations of Public Interest |
| OUCs | Consortial Urban Operations |
| PAC | Plan for Growth Acceleration of Federal Government |
| PBF | Bolsa Família Program |
| PIB | Gross Domestic Product |
| PLANSAB | National Basic Sanitation Plan |
| PMI | Procedure for Expression of Interest |
| PNAD | National Household Sample Survey |
| PNLP | National Plan of Port Logistics |
| PPPs | Public-Private Partnerships |
| RCL | Current Net Revenue |
| RDC | Differential Public Procurement Regime |
| RMS | The Metropolitan Area of Salvador |
| RMSP | The Metropolitan Area of São Paulo |
| SABESP | Basic Sanitation Company of the State of São Paulo |
| SELIC | Referential Interest Rate of the Special System of Clearance and Custody |
| SEP/PR | Ports Secretariat of the Presidency |
| SNIS | National Sanitation Information System |
| SPE | Special Purpose Company |
| SSRH | Sanitation and Water Resources Secretariat |
| STN | National Treasury Secretariat |
| TCU | Federal Court of Accounts |
| TCU | Internal Rate of Return |
| TIR | Value for Money |
| VfM | Light Rail |
| VLT | Veículo Leve sobre Trilhos |

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Forewords

Public-Private Alliances for Development (PPADs) are consistently identified as opportunities to meet the challenges of public investments worldwide. The implementation of projects that use partnerships mechanisms between public and private entities requires planning, monitoring and continuous evaluation so that it can efficiently reach its goals.

In Brazil, Federal, State and Municipal Governments have included the adoption of PPADs in their plans and have sought to expedite the implementation process of these initiatives. To put forward these projects, the country should consider the lessons learned and best national and international practices on adopted policies and projects carried out in their different stages, as the choice of institutions, development, deployment and management. Furthermore, it is important to examine the intervention in the overall context of the sector and territory.

Considering the objectives of the Inter-American Development Bank (IDB) to promote economic,

social and institutional development in Latin America and the Caribbean and through the understanding that PPADs are important tools for the implementation of public policies, the IDB Country Office in Brazil created a committee to promote the debate and the construction of knowledge on this subject.

Composed of experts from all departments of the Bank, the Committee promotes dialogue with strategic partners including representatives of the public sector in the three levels of government, private sector, civil society and academia. From this interaction, a series of strategic actions - seminars, studies, specific assessments and advisory services - have been proposed in order to contribute to the strengthening of Public-Private Alliances for Development in Brazil.

The publication of the series " CYCLE OF DEBATES - Public-Private Alliances for Development" is added to these initiatives and aims to disseminate research and best practices that examine issues related to the interaction between the public and

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private sectors, meeting the investment needs with fiscal sustainability and setting up the provision of social and economic infrastructure and quality public services.

This first volume of the series deals with the macroeconomic context of investment in infrastructure in Brazil and analyzes two of the main models of PPADs: Public-Private Partnerships (PPPs) and Consortial Urban Operations (CUOs). The publication and analysis of the results of these initiatives focuses on the generation,

organization and systematization of a coherent body of knowledge about the current situation of PPAD models in the country, and the assembly of academic institutions, government, business and society.

Thus, we hope to continue contributing to the promotion of research projects aimed at expanding the knowledge of the development process in Latin America and the Caribbean.

Daniela Carrera-Marquis

Representative of the Inter-American Development Bank in Brazil

Introduction

Brazil invests on average less than 20% of its Gross Domestic Product (GDP) and of those, only 2% is in infrastructure. The modest investment is reflected in low levels of productivity and competitiveness of the Brazilian economy. This scenario generates a low GDP growth rate and perpetuates socioeconomic inequalities.

The Brazilian economic history from the early 80s to mid-90s was marked by substantial internal imbalances and excessive macroeconomic instability. Battered with shock in international interest rates and rising oil prices, the economy spent the entire period in a scenario of strong financial instability. The 80s, for example, is usually called the “lost decade” because of the low growth and worsening of almost all social indicators of the country.

During this period, there was an intensification of public sector imbalances with a significant reduction in public savings and misuse of state enterprises and banks to hide such instabilities. This framework has resulted in a substantial increase in internal and external indebtedness, exclusively focused on covering, in the short-term, rising government budget deficits. Such dynamics led the country to go through periods of defaults on its debt and confiscations of private savings, and

generate rampant inflation which monthly reached double-digit figures. In an economic environment marked by such events and together with the lack of a satisfactory regulatory framework, decision-making in favor of long-term investments was practically unfeasible.

During the 90s, the country achieved greater economic stability, especially with regard to inflation, through the Real Plan. The second half of the decade was marked by a process of privatization in various sectors of the economy. The privatization programs assumed that the investment gap left by the public sector could and should be occupied by the private sector. Such programs were made up primarily by the transfer of assets, which moved to the private sector the control of industrial sectors, by the construction of a legal and regulatory framework, and through concessions of public services and infrastructure.

Although the results were heterogeneous and not always satisfactory with regard to improving the quality of services offered, the process highlighted the need for changes in the country, especially concerning the improvement of the legal framework and of the way of financing long term investments.

Privatization pointed to the need for the existence of a sector policy grounded in a legal framework

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for the different areas. This framework should encourage universalization, competition and clearly define the role of the State and the medium and long term goals, thus being able to guide the private sector and allow the correct perception of business risk. Furthermore, it was clear the need to establish a financing replacement strategy that would allow the expansion of private participation.

International crises experienced by the country in last years of the 90s inhibited further evolution of this process. Only since 1999, through the implementation of a regime of inflation targets and flexible exchange rate, and the early 2000s, with the approval of Complementary Law 101 (Fiscal Responsibility Act), it was possible to create an economic tripod, which generated greater stability. Thus an environment more favorable to the development of a long-term investment market was established. However, even within a more favorable macroeconomic environment, especially in the period between 2004 and 2007 when there was a decrease in inflation and recovery of capital markets, the volumes recorded with new issues of shares and private debt instruments did not ensure a steady stream of long-term financing.

Facing the international crisis of 2008-2009, the decrease in domestic and international capital flows, and higher credit restrictions on the private market, the government adopted a countercyclical policy to increase the supply of public financing through the three largest federal banks: Caixa Econômica Federal (CAIXA), the Bank of Brazil (BB) and e the National Bank for Economic and Social Development (BNDES as in Portuguese). The funds were aimed at restructuring companies, consolidating priority sectors and preserving jobs.

The justification for this policy can be partly explained by the attempt to maintain the advances in social indicators made by the country in the 2000s. The period was marked by a continued fall in inequality in Brazil. According to data from

the National Household Sample Survey (PNAD as in Portuguese), the poverty rate contracted from 35.2% to 21.4%. The decline in extreme poverty was even more pronounced, being halved in percentage terms and falling from 15.3% to 7.3%. In addition to the economic stability, these advances are explained by the positive momentum in the labor market, significant expansion of social security programs and income transfer (Bolsa Família Program), the promotion of entrepreneurship and support programs for family farming.

However, the adoption of such anti-cyclical policy has worsened the macroeconomic situation of the country. From a fiscal point, according to Central Bank data, from January to December 2014 the public sector (federal, state and municipal) has accumulated a primary deficit of R\$ 32,5 billion when the fiscal target for the year was a surplus of R\$ 99 billion. The nominal deficit (including interest expenses), which represented 3,25% of the GDP in 2013, reached 6,7% in 2014. The general gross government debt reached 63.4% of the GDP, rising in 0,4 percentage points compared to 2013¹.

It then became clear that to restore high growth rates the country should focus on increasing its productivity and adopting an investment expansion model, and therefore enhance the productive capacity of the economy. In the period 1995-2003, the country's investment rate was on average 16.7% of GDP, rising to an average of 17.8% of GDP between 2004 and 2012. In fact, the data show that since 2009, the investment hovers around 18.7% of GDP, less than the 24% of GDP necessary to ensure economic growth in the range of 4% per year, and well below the investment rates of countries with income similar

1. Data source: Central Bank of Brazil, Press Release, January 2015 and www.ipeadata.gov.br

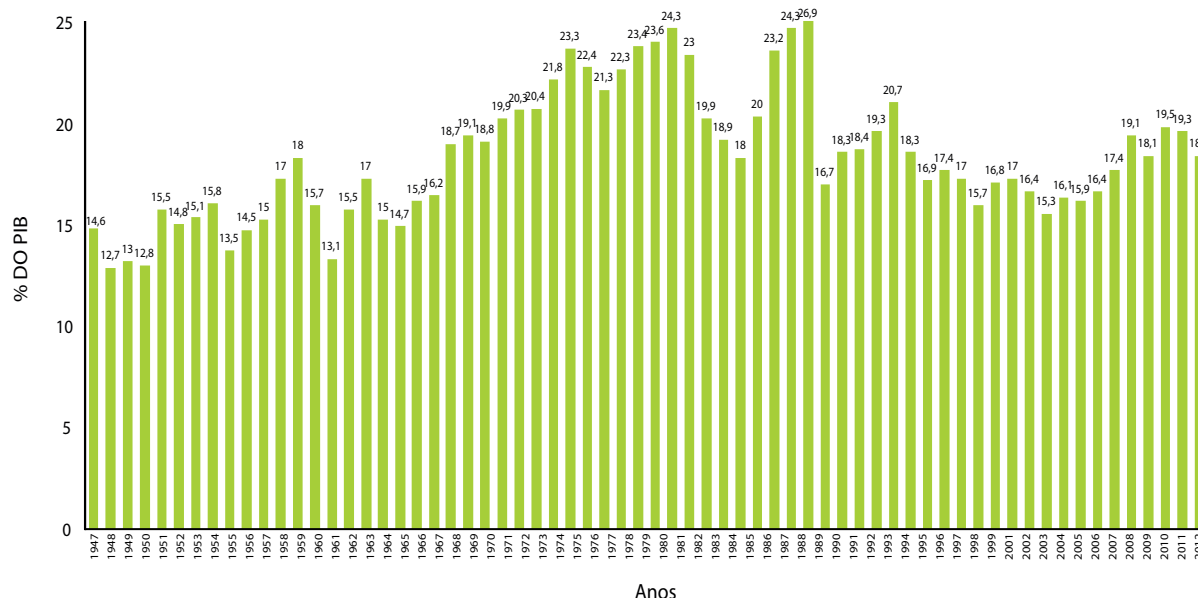
to Brazil². The history of investment rates in Brazil are represented in the chart below.

According to the report “Connecting Brazil to the world: The path to inclusive growth”, from May 2014, of the McKinsey Global Institute, in the next two decades, Brazil will need an annual GDP growth of around 4,2% to consolidate in the middle class the population of the country still considered vulnerable and it is estimated that 1,25% of this increase can be obtained through the expansion of its global ties³. However, the desired investment expansion in the country is likely to face severe restrictions in the coming years, both from the cyclical and structural point of view of the Brazilian economy.

From the cyclical point of view, the result of the combination of difficulties in increasing tax revenues due to the low growth of the country, excessive current tax burden, rigidity of budgetary obligations and the need to achieve fiscal surpluses, poses a major challenge to the increase of the investment.

Regarding taxes, it is unclear whether the government may use new taxes to finance investments due to the resistance in expanding the already high tax burden⁴ that exceeded 36.2% of the GDP in 2012, as showed in the graph below, drawn from the most recent data released by the IBGE. As for the year 2013, the tax burden

Chart 1: Investment Rate in Brazil - 1947-2012



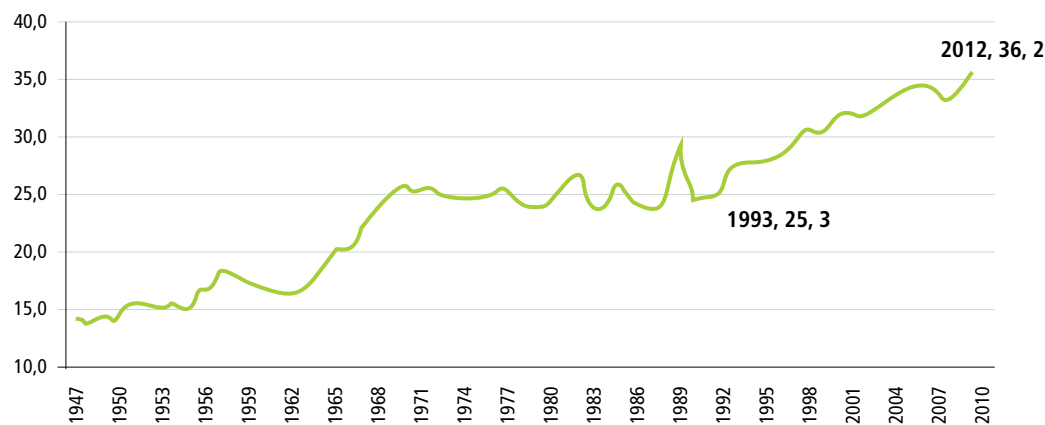
Source: Fundação Getúlio Vargas- Centro de Contas Nacionais - diversas publicações, de 1947 a 1989; IBGE. Diretoria de Pesquisas. Coordenação de Contas Nacionais. For the years 2010 and 2011 preliminary results were obtained from the Quarterly National Accounts

2. McKinsey. Connecting Brazil to the world: The path to inclusive growth. 2014. p.5. Available in: http://www.mckinsey.com/~media/McKinsey/dotcom/Insights/South%20America/Brazils%20path%20to%20inclusive%20growth/MGI_Connecting_Brazil_to_the_world_Full_report_May%202014.ashx.

3. McKinsey. Connecting Brazil to the world: The path to inclusive growth. 2014. p.5. Available in: http://www.mckinsey.com/~media/McKinsey/dotcom/Insights/South%20America/Brazils%20path%20to%20inclusive%20growth/MGI_Connecting_Brazil_to_the_world_Full_report_May%202014.ashx.

4. The evolution of the tax burden in Brazil can be summarized in three periods: (i) from 1947 to 1965, when the tax burden was less than 20% of GDP; (ii) 1966 to 1993, when after the Campos and Bulhões financial reform the tax burden grows to 25% of GDP and stays around this value until 1993; and (iii) 1993-2012, when the tax burden grows almost continuously and passes from 25% to 36% of GDP, driven by the need to cover the Social Welfare State established in the Constitution of 1988 and the need for federal government economy (primary surplus).

Chart 2: Tax Burden in Brazil % GDP -1947 to 2013



Source: IBGE: 1947-2009 and IBPT: 2010-2013

estimated by the Brazilian Institute of Planning and Taxation (IBPT as in Portuguese) reached 36.42% of the GDP⁵.

Moreover, there are still limits to the granting of loans by state banks, particularly by the National Bank for Economic and Social Development, to finance infrastructure projects. According to Judgment, TCU No. 3.071/2012, subsidies, explicit and implicit, granted by state-owned banks, especially the BNDES credit operations, summed the amount of R\$ 347 billion in the period between 2008 and 2011.

From a structural point of view, the legal certainty of contracts, the credibility of the institutions, stability of rules and predictability of decisions conform to a large extent the business environment. Its influence on investors also imposes restrictions on the increase of investment in the country.

Given the complexity of the challenges, the connection of public and private resources, besides third sector resources, is an alternative to ensure economic growth with social inclusion, sustainability and equity. The adoption of Public-Private Alliances for Development allows the public to be able to expand, over time, the investment and provide, even in the short term, works and services to the population. The realization of investments of economic nature such as in roads and ports, allows the increase of the economy productivity levels and ensures economic growth in the long term. The investments in social services make it possible to provide, among others, education, health and sanitation, which contributes to greater social inclusion.

5. The BIPT considers all amounts collected by the three spheres of government (taxes plus fines, interest and correction); for lifting the state collections and the Federal District is used as a database, in addition to CONFAZ, figures released by the State Departments of Treasury and the National Treasury of the Ministry of Finance; as the municipal collections, keeps track of the figures released by 1,512 municipalities that publish their numbers in consideration of the Fiscal Responsibility Act, the Transparency Portal and through the figures released by the National Treasury and the State Audit Courts.

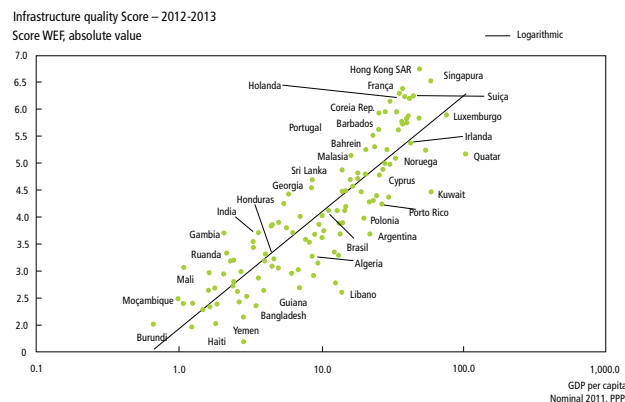
Chapter 1: Infrastructure Investments in Brazil

In Brazil, it is traditionally understood that investing in infrastructure means to carry out works, which is a short way of thinking about one element so relevant to the country's development. Infrastructure comprises a service system that seeks to meet the basic needs of daily life of citizens, such as energy, communication, mobility, logistics, sanitation, security, health and education.

It is justifiable to think about infrastructure in systemic way since these sectors have by nature network characteristics, economies of scale and externalities. These are services, whether provided by the public or the private sector, that require regulatory mechanisms. In addition, the adoption of strategic plans is necessary for their provision, as well as the creation of incentives for them to be provided with quality, since their offer affects the improvement of their users well-being.

The following graph shows the dependence of economic growth regarding quality infrastructure installed in a country.

Chart 3: Association between economic development and infrastructure installed



SOURCE: World Economic Forum (2011) "The Global Competitiveness Report 2012-2011"; Global Insights; McKinsey Global Institute analysis

The historical pattern of spending indicates that global investment in roads, railways, ports, airports, energy, water and telecommunications uses about 3,8% of global GDP, considering the expenditures of 84 countries that account for over 90% of world GDP. In this context, applying growth projections of 3,3% per year, there will be a need for a total investment of US\$ 62 trillion from 2013 to 2030. Moreover, a shift is observed on the "center of gravity" of spending on global

infrastructure, to the developing economies, in line with economic growth⁶.

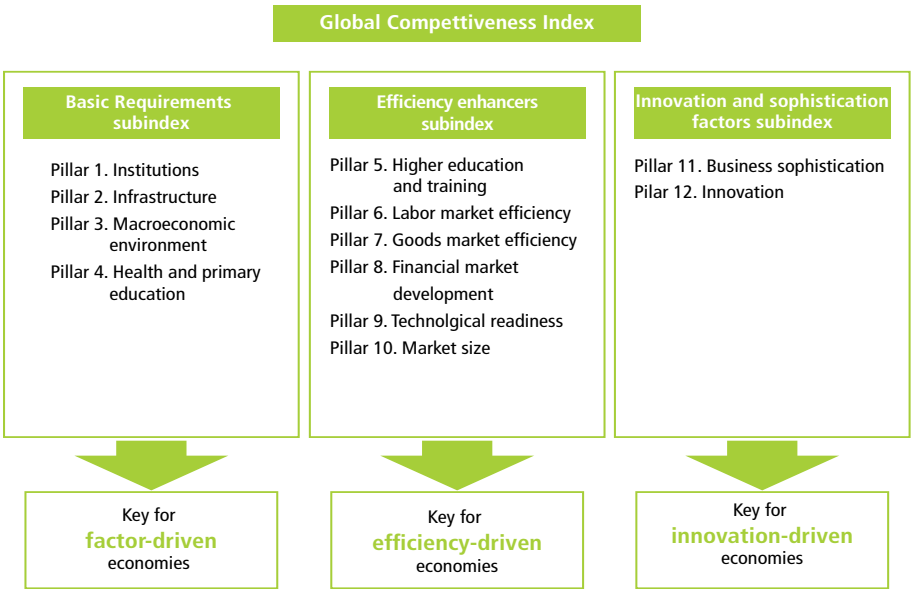
Among the many determinants that drive productivity and competitiveness described in the Global Competitiveness Report of the World Economic Forum, the Global Competitiveness Index (GCI) captures various components and groups them into 12 pillars of competitiveness: institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labor market efficiency, financial market development, technological readiness, market size, business sophistication and innovation, as shown in Figure 1⁷.

The report highlights that the increase in productivity and competitiveness is key

to increase the prosperity of a country and comprises a process that requires long-term commitments from interested parties. Therefore, six characteristics of an effective infrastructure system are listed: close coordination between the infrastructure institutions, clear separation of political and technical responsibilities, effective engagement between the public and private sectors, stakeholder engagement based on trust, willingness to a robust information base for decision making, and significant skills along the infrastructure value chain⁸.

In this Report for the biennium 2014/2015, Brazil occupies the 57th position of the GCI. It was decisive for this classification the insufficient improvement of transport infrastructure, essential aspect for ensuring the effective functioning of the economy, and important in determining the

Figure 1: Global Competitiveness Index Pillars



Source: The Global Competitiveness Index (GCI) framework.

6. McKinsey. Infrastructure productivity: How to save \$ 1 trillion a year. McKinseyInfrastructurePractice. January Report 2013. p. 9. Available at: <http://www.mckinsey.com/insights/engineering_construction/infrastructure_productivity>. Accessed on: 20 Nov. 2014

7. World Economic Forum. The Global CompetitivenessReport 2014-2015. 2014. p. 4. Available at: <http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf>. Accessed on: 20 Nov. 2014.

8. McKinsey Global Institute. Infrastructure productivity: How to save \$ 1 trillion a year. McKinseyInfrastructurePractice. January Report 2013. p. 29 to 32, p. 63. Available at: <http://www.mckinsey.com/insights/engineering_construction/infrastructure_productivity>. Accessed in: 20 Nov. 2014.

location of economic activity and the types of activities or sectors that can be developed within a country.

According to the Federation of Industries of the State of São Paulo (FIESP), in 2014 it was made clear that the Brazilian infrastructure sector presents major gaps and needs to accelerate its investments in the coming years, highlighting three points⁹:

1. Brazil's infrastructure does not meet the current needs of the country, either provides the necessary conditions for growth. Investments in recent years have been modest (only 2,2% of GDP) vis-à-vis historical references of Brazil and even other emerging economies like India (4,7%) and China (8,5%).
2. Brazil must then expand and accelerate its investment program on quality infrastructure in order to increase its competitiveness in the global market, reducing internal operating costs and improving the quality of life in cities. It is estimated that to close these gaps investment of more than 5% of GDP or R\$ 240 billion annually in the coming years are required.
1. The challenges to implement an investment program of this magnitude are relevant and are present in all phases of the projects: the need to create a favorable regulatory environment for the development of quality projects; promoting private investment and increasing productivity, including the establishment of regulatory frameworks aligned with the context and needs of sectors; and an integrated plan for national infrastructure development policies which consequently would yield major priority projects to close the gaps; obtaining licenses

and approvals, with forums dedicated to the understanding of sector specifics; and follow-up models for project implementation.

Road Infrastructure in Brazil

Road transport accounts for about 60% of cargo transportation in Brazil. This dependence comes from the implementation of the National Road Plan in the 60s and 70s that was funded by resources of the Federal Government, mainly originated from fuel and lubricants taxes and on the ownership of vehicle¹⁰. However, this arrangement began to fade since the resources that financed it came under competition from other demands, and ended with the ban on linking tax revenues to organs, funds or predetermined expenses, established by the 1988 Federal Constitution.

Since then, the road infrastructure came to rely heavily on ordinary resources of the Federal Government, which have been insufficient even for its maintenance, and presented in 2011, a demand of R\$ 180 billion in works for recovery¹¹. From the 1990s, three alternatives aimed at maintaining federal highways have been put in place: the restoration of financing sources for this sector, concession of highways to private operators, and delegation of the management and operation of highway stretches to the states¹².

The first alternative was attempted by trying to resume the allocation of resources through the Contribution on Intervention in the Economic Domain (Cide-Combustíveis as in Portuguese) in 2001. However, what has been observed is that despite the allocation for specific purposes, these revenues have been used to repay debt,

9. FIESP. Melhores Práticas e Oportunidades para Desenvolvimento da Infraestrutura Brasileira. Reunião Coinfra de 13 de fevereiro de 2014. p. 3. Available at: <http://az545403.vo.msecnd.net/uploads/2014/02/transparencias_coinfra_13_02_14_mackinsey-v2.pdf>. Acesso em: 20 Nov. 2014.

10. IPEA. Gargalos e Demandas da Infraestrutura Rodoviária e os Investimentos do PAC: Mapeamento IPEA de Obras Rodoviárias. Texto para discussão 1592. Março de 2011. p. 7. Available at: <http://www.ipea.gov.br/portal/images/stories/PDFs/TDs/td_1592.pdf>. Accessed in: 20 Nov. 2014.

11. IPEA. *Op. cit.* p. 8.

12. IPEA. *Op. cit.* p. 11.

pay employees and for the defrayal of the federal administration¹³.

The second alternative was more successful, and thousands of kilometers of federal and state highways were transferred to the private sector, which has only an interest in those with financial viability. This fact limited the ability of the government on granting a large number of roads, but was overcome by the creation of Law No. 11.079/2004. The so called Public-Private Partnerships Act enabled the provision of public subsidy paid to the extent that the service is provided by the operator and enabled private participation in projects with little or no financial return. Although the Federal Government has not yet used this law for road projects, Minas Gerais was a pioneer and in 2007 signed with a private group the sponsored concession contract of the first road PPP in the country, benefiting 372 kilometers of MG-050¹⁴.

The third alternative was put into practice through the Delegation of Federal Highways Program, established by Law 9.277/1996, that, despite having generated some attempts of agreements between 1996 and 1998, ended up being revised by decision of the National Destatization Council (CND as in Portuguese)¹⁵.

Railway Infrastructure in Brazil

In Brazil, the railway infrastructure is proportionately much lower than the road. A small part of the network is under state management and major national railways are managed by large private operators, which are limited only to cargo transportation. Throughout history, the rail network has become just a means of transport of agricultural and mineral commodities produced or extracted in traditional areas or in new agricultural

frontiers. Moreover, it is apparent that the national railways have little to do with the creation of new socio-economic development poles¹⁶.

The current regulatory framework has been an obstacle to private investment in the expansion of railway infrastructure, as existing contracts hinder the understanding of which investments are the responsibility of the concessionaires and which are of the government. In addition, there is no provision targets to ensure more private investment, an aspect that limits the capacity of the railway network, whose assets will revert to the Granting Authority at the end of the concession period. However, one of the biggest bottlenecks for maximum utilization of the network as well as its expansion, is the difficulty in interpenetration of a network with each other, which also turns out to be a disincentive for the private sector to invest in new railways¹⁷.

Airport Infrastructure in Brazil

As described in the report “The Management of the Brazilian Airport Infrastructure and Operational Difficulties to Be Overcome in the Realization of Major Events”, from “The 4th International Congress University Industry Cooperation”, despite the euphoria caused by major events being held by the country, it seems that there are difficulties to achieve the necessary conditions for their implementation, especially with regard to the adequacy of airport infrastructure.

Study of the Institute of Applied Economic Research (IPEA as in Portuguese) shows that the Brazilian airline industry has been growing largely, which can be ascertained by the increase in the number of trips and passengers

13. IPEA. *Op. cit.* p. 12.

14. IPEA. *Op. cit.* p. 13.

15. IPEA. *Op. cit.* p. 13.

16. IPEA. *Op. cit.* p. 13.

17. IPEA. *Op. cit.* p. 18.

at airports, as well as the growing number of aircrafts registered in the National Civil Aviation Agency (ANAC as in Portuguese). However, the data also show a disturbing scenario since in 14 of the 20 largest domestic airports there is a bottleneck situation and these have been operating above their capacity¹⁸¹⁹.

The investment of the Brazilian Airport Infrastructure Company (Infraero) and funds from the Airport Infrastructure Development Program between 2003 and 2010 were R\$ 3.4 billion from company and R\$ 2.2 billion from the program, demonstrating the dependence and importance of fiscal investments in airports. Importantly, the largest amount invested in the period, R \$ 1.5 billion, was observed in 2006. In the same year, according to the study Cost of Delays of the Brazilian Air Transport in 2006, published as an IPEA Release, the cost of airport congestion was R\$ 1 billion²⁰.

The concessions of the airports of Guarulhos, Campinas and Brasilia made after the study and those that are ongoing at the present time show that the government is creating alternatives for attracting private capital in order to cope with the sector's investment needs.

Waterway and Port Infrastructure in Brazil

Study published by the economist Claudio Frischtak, points out that investment in waterway and port infrastructure have historically been very low when compared to other modes of transport, as highlighted in the table below.

Table 1: Investment in Transport Infrastructure (R\$ billion, % of GDP)

| | Average p.a. 2001/10 | 2011 | 2012 | 2013 |
|------------------------|----------------------------|-------|-------|-------|
| Road Transp. | 9,89 | 20,07 | 18,74 | 25,13 |
| % GDP | 0,39 | 0,48 | 0,43 | 0,52 |
| Railway Transp. | 2,85 | 6,36 | 6,22 | 8,02 |
| % GDP | 0,11 | 0,15 | 0,14 | 0,17 |
| Urban mobility | 1,50 | 3,49 | 5,48 | 8,12 |
| % GDP | 0,05 | 0,08 | 0,12 | 0,17 |
| Airports | 0,58 | 1,15 | 2,56 | 4,58 |
| % GDP | 0,03 | 0,03 | 0,06 | 0,09 |
| Ports | 1,32 | 3,65 | 7,04 | 4,53 |
| % GDP | 0,05 | 0,09 | 0,16 | 0,09 |
| Waterways | 0,29 | 0,13 | 0,09 | 0,13 |
| % GDP | 0,01 | 0,00 | 0,00 | 0,00 |
| Total | 16,43 | 34,85 | 40,13 | 50,51 |

Source: Based on study of Claudio Frischtak

In the case of water transport between 2001 and 2013, the resources allocated to the infrastructure of this modal (locks, overthrow, signaling, dredging and maintenance of margins) accounted for just over 1% of the total disbursed in transport and basically relied on public funding sources. The investments in waterway superstructure (the example of the waterway terminals) are predominantly private (the latter recorded in ports). According to the Growth Acceleration Program (PAC as in Portuguese) of the total of 57 waterways works under the program, only 16 are completed, 18 are running, and 23 are in the preparatory action, which means that there is no prediction of starting and thereby finishing.

Private financing of Brazilian ports expansion works begins in 1869 through the Concessions Act, a trend originated from the opening of the ports promoted by King João VI in 1808 that aimed to put the country in the context of international trade. This model was used until the 1930s, when the State took over the role of financier and operator of this infrastructure and has its peak in the creation and expansion of Portobrás. With the extinction of the company in 1990, the port system went through a crisis that culminated with

18. IPEA. Aeroportos no Brasil: investimentos recentes, perspectivas e preocupações. Nota Técnica. Abril de 2011. p. 12. Available at: <http://www.ipea.gov.br/portal/images/stories/PDFs/110414_nt005_diset.pdf>. Accessed in: 20 Nov. 2014.

19. This study presents investment values exceeding R \$ 20 billion in time horizons above 10 years, except the FDC that presents a need for R \$ 25.5 billion to be invested between 2011 and 2016.

20. IPEA. Op. cit. p. 6.

the enactment of the Port Modernization Act in 1993. The law redefined the roles of authority and port operator and of the government in the management and regulation of the system²¹.

In 2001, Law No. 10,233 created the National Agency for Waterway Transportation (ANTAQ as in Portuguese) and assigned to it the responsibility to promote studies to demand estimates, and, among other duties, set fares and rates, edit rules and regulations to service provision, and manage and supervise contracts of organized port concessions and port facility leases. Furthermore, it established as the agency’s objective the regulation or supervision of service provision activities and transport infrastructure operation to ensure motion in compliance with standards of efficiency and modicity of tariffs.

The ports sector is strategic for the Brazilian economy. According to the Executive Summary of the National Port Logistics Plan (PNLP as in Portuguese), prepared by the Secretariat of Ports of the Presidency of the Republic (SEP/PR as in Portuguese), 95% of the total volume of exports and imports from Brazil circulate in Brazilian ports. In this sense, in order to meet demand and make the country more competitive, the Federal Government announced in December 2012, the reform of the port sector, expected to attract public and private investments in the amount of R\$ 54.2 billion by 2017.

A reform of the port sector was approved in 2013 from the enactment of Law 12,815, regulated by Decree 8,033/2013, which repealed the Law 8.630/1993. Overall, the new establishment of rules brought centralization of lease and concession processes, moving to the SEP/PR and to ANTAQ the responsibilities of granting authority and of carrying out studies and biddings,

previously held by the Docks Company. Other innovations introduced by the law were ending the distinction between own cargo and of third parties, and changing the bidding criteria from the higher value of grant to higher efficiency and lower price. The reform also made it possible to use the Differential Public Procurement Regime (RDC as in Portuguese), advocated by Law 12.462/2011.

Reducing red tape in releasing cargos, greater coordination between the public authorities of the sector, manpower with appropriate capacities regarding implemented technological upgrades and opening hours of customs compatible with operational needs of ports are the main complaints of users to government. However, it turns out that in addition to the clear need to increase resources for the solution of infrastructure demands of the sector, it is necessary to seek greater efficiency and agility in managing and implementing the works in order to comply with the proposed schedule, without which neither repressed demands will be met²².

The chart below denotes the investment amount needed in 2009 to meet the identified needs versus allocation of resources envisaged in the PAC.

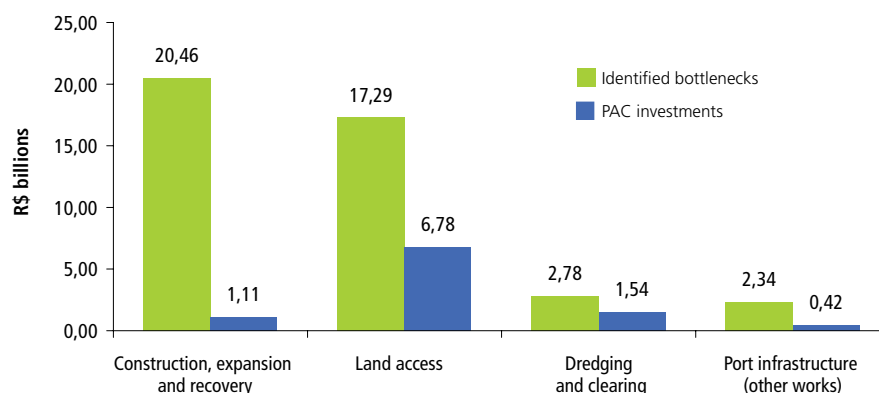
Sanitation Infrastructure in Brazil

For sanitation, the low investment made in recent decades, combined in many cases with the poor management quality of assets, has resulted in high losses of water and relatively low rates of coverage and sewage treatment. According to data from the National Sanitation Information System (SNIS

21. IPEA. Gargalos e Demandas da Infraestrutura Portuária e os Investimentos do PAC: Mapeamento IPEA de Obras Portuária. Texto para discussão 1423. Outubro de 2009. p. 8. Available at: <http://www.ipea.gov.br/portal/images/stories/PDFs/TDs/td_1423.pdf>. Accessed in: 20 Nov. 2014.

22. IPEA. Gargalos e Demandas da Infraestrutura Portuária e os Investimentos do PAC: Mapeamento IPEA de Obras Portuária. Texto para discussão 1423. Outubro de 2009. p. 36. Available at: <http://www.ipea.gov.br/portal/images/stories/PDFs/TDs/td_1423.pdf>. Accessed in: 20 Nov. 2014.

Chart 4: Identified bottlenecks and demands (2008) versus PAC investments (2007-2011)



Source: PAC (2009); and Mapeamento Ipea de Obras Portuárias – Elaboration: Ipea (Diset/Dirur)

as in Portuguese) of 2013,²³ 82.5% of the population has access to clean water. For the states, the average rate of urban service for mains water indicates values above 90% in 18 states plus the Federal District. In the range of 80 to 90%, others three appear; in the range below 60 to 80%, only one state; and the penultimate track, from 40 to 60%, three states lie. Only one state appears on the lower range below 40%. In regional terms, it appears that the North and Northeast have the lowest service rates. The data indicate that Brazil is walking to service universalization according to information from providers.

With regard to access to the sewage network, the data shows that on average only 48.6% of the population have access to this service. With regard to the generated sewage, the national average is 39% and the North, Northeast and Midwest are below the national average. There is a need to expand the network in order to allow it to reach the goal of 88% of sewage collected in 2033, as provided in the National Basic Sanitation Plan (PLANSAB as in Portuguese), coordinated by the Ministry of Cities. The situation is illustrated in the table below.

Table 2: Service levels of water and sewage of the cities whose service providers are participating in the SNIS in 2013, according to geographic region and Brazil

| Region | Rate of service for mains (%) | | | | Rate of sewage treatment (%) | |
|-----------|-------------------------------|---------|---------|---------|------------------------------|------------------|
| | Water | | Sewage | | Generated sewage | Collected sewage |
| | Total | Urban | Total | Urban | Total | Total |
| | (IN055) | (IN023) | (IN056) | (IN024) | (IN046) | (IN016) |
| North | 52,4 | 62,4 | 6,5 | 8,2 | 14,7 | 85,3 |
| Northeast | 72,1 | 89,8 | 22,1 | 29,3 | 28,8 | 78,1 |
| Southeast | 91,7 | 96,8 | 77,3 | 82,2 | 43,9 | 64,3 |
| South | 87,4 | 97,4 | 38,0 | 44,2 | 35,1 | 78,9 |
| Midwest | 88,2 | 96,3 | 42,2 | 48,6 | 45,9 | 91,6 |
| Brazil | 82,5 | 93,0 | 48,6 | 56,3 | 39,0 | 69,4 |

Note: To calculate the rate of generated sewage treatment (IN046) it is estimated that the amount of generated sewage as being equal to the volume of water consumed.

Source: SNIS 2013.

Losses from supply systems fall into two categories: the denominated as apparent (not physical), related to the volume of water that was actually consumed by the user, but for some reason, was not measured or accounted for, which leads to billing losses for the service provider; and the actual loss (physical losses) which refers to water available for distribution which do not reach consumers and are caused by leakage. Available data from SNIS indicate that the distribution losses reached an average of 37% in 2013. From

23 The SNIS 2013 ensures a representation of 90.4% in relation to all municipalities and 97.6% in relation to the urban population of Brazil. For sewage, representativeness of 67.0% from the total of municipalities and 91.1% in relation to the urban population of Brazil.

a regional perspective, the North and Northeast regions have the highest rates, followed by the South, Southeast and Midwest, as shown in the table below.

Table 3: Distribution losses index (indicator IN049) of the service providers that were participants of the SNIS in 2013, according to type of service provider, geographic region and Brazil

| Region | Type of service provider | | | | | Total |
|-----------|--------------------------|----------------|---------------------|----------------------|-----------------------|-------|
| | Regional | Micro-regional | Local Public Direct | Local Private Direct | Local Private Company | |
| | (%) | (%) | (%) | (%) | (%) | (%) |
| North | 54,3 | - | 44,7 | - | 48,1 | 50,8 |
| Northeast | 46,1 | - | 38,7 | 5,8 | - | 45,0 |
| Southeast | 32,3 | 39,7 | 36,6 | 30,3 | 32,5 | 33,4 |
| South | 35,9 | 28,1 | 31,0 | 46,8 | 51,9 | 35,1 |
| Midwest | 29,4 | 42,6 | 32,1 | - | 49,1 | 33,4 |
| Brazil | 37,0 | 38,7 | 36,1 | 31,2 | 42,7 | 37,0 |

Source: SNIS 2013.

The following table shows the amounts recorded from the investment point of view in 2013.

Table 4: Investments made in 2013 by geographic region and destination of applications

| Region | Expenses subject to capitalization | Water | Sewage | Others | Total | |
|-----------|------------------------------------|----------|----------|----------|----------|--------|
| | (R\$ mi) | (R\$ mi) | (R\$ mi) | (R\$ mi) | (R\$ mi) | (%) |
| North | 19,6 | 240,6 | 208,3 | 23,5 | 491,1 | 4,7% |
| Northeast | 88,7 | 1.278,1 | 596,4 | 96,2 | 2.057,8 | 19,6% |
| Southeast | 254,1 | 1.779,1 | 2.667,3 | 661,9 | 5.357,3 | 51,1% |
| South | 33,2 | 586,8 | 794,9 | 138,2 | 1.549,4 | 14,8% |
| Midwest | 22,5 | 447,3 | 417,8 | 130,4 | 1.018,0 | 9,7% |
| Brazil | 418,2 | 4.332,0 | 4.684,8 | 1.050,3 | 10.485,2 | 100,0% |
| | 4,0% | 41,3% | 44,7% | 10,0% | 100,0% | - |

Source: SNIS 2013.

The Southeast Region, according to the SNIS report, maintains the historical leadership. Regarding the sources of funds, the sector counts on resources from the Length-of-Service Guarantee Fund (FGTS as in Portuguese) and the Worker Support Fund (FAT as in Portuguese) under management of the Federal Government, as well as from international

loans acquired from multilateral lending agencies, such as the Inter-American Development Bank (IDB) and the World Bank (IBRD). The sector also counts on non-onerous resources from the Federal Budget (OGU as in Portuguese) available through the Annual Budget Act (LOA as in Portuguese) and from budgets of states and municipalities. It still has its own resources from service providers as result of charging for services. According to the report, from a total of more than R\$ 10 billion invested in 2013, 55.7% were carried out with own resources, 29.6% with onerous resources and 14.7% with non-onerous resources.

According to the SNIS, in the period from 2007 to 2013, the result was very positive, as it indicates an increase of 147.4% in the values of 2013 when compared to 2007, representing an average annual growth of 24.6%. The total amount invested in seven years, in historical values, resulted in R\$ 55.3 billion, an annual average of R\$ 7.9 billion.

According to the PLANSAB, between 2014 and 2018, annual investments of R\$ 18,1 billion are expected. The forecast of the Brazilian Association of Concessionaires of Water and Sewerage Services (ABCON), held in 2013, is that the private concessionaires are expected to invest R\$ 5.4 billion between 2014 and 2017, or an average of R\$ 1.3 billion a year, only with regard to existing projects. Thus, given the obvious fiscal restraint in the public sector, it would be essential that the amount invested by the private concessionaires were considerably expanded, as the municipalities choose to bid these services.

According to ABCON, the largest disbursements in the sector were conducted by state companies, which are responsible for services in 70.8% of the municipalities. Private companies operate in 5.3% of the municipalities and serve 13.5% of the population, according to 128 full concession contracts, 22 partial concessions, 66 PPPs, three leases of assets, and 78 other contractual forms,

mostly to provide management service or technical assistance. The municipal authorities act in 23.9% of Brazilian municipalities, most of them small.

Despite the evolution of investments, the country still has deficits in service provision. According to SNIS, execution agility is often lower than necessary. The lack or poor quality projects, the difficulty to obtain environmental licenses and also to achieve the regularization of land on which the operational units of the designed systems will be

built are problems constantly faced by the Brazilian sanitation sector. Delays in the bidding process of works and difficulties in performing the tasks within the established timetable are also observed.

In this perspective, it seems to be fundamental a structural transformation of the sector, including by encouraging the formation of consortiums, as a matter of scale, and the generalization of partnerships with the private sector in order to meet the population’s needs.

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Chapter 2: Public-Private Alliances for Development

The various forms of integration between the public and private sectors have been identified as an alternative to meet the need to increase investments in infrastructure in Brazil. International literature defines Public-Private Alliances for Development (PPADs) as collaborations through which individuals, groups or organizations intend to work together to fulfill an obligation or undertake a specific initiative, sharing the risks as well as the benefits, and reviewing the relationship regularly, whenever necessary.

Public-Private Alliances for Development are very complex processes that require the adoption of a new culture among sectors of society and the development of more detailed studies of economic and financial feasibility. In PPADs projects, negotiation procedures may be more extensive, because of the lack of experience of the contractors, implying delay in the execution of works and service provision to the population. So, in countries where the development of PPADs is still incipient, these projects are not the fastest way to implement social and economic services.

However, with the adoption of these alliances, the government shifts the attention, focusing more on service provision and on the results of this provision, than in the procurement and operation of goods and inputs involved. The PPADs complement the list of possible institutional arrangements for the provision of works and services, alongside purely public or purely private projects. Thus, one possible way to set PPADs is as projects that are not either of these two institutional arrangements, since the alliances between the public and private sectors can be extended to various fields of public policy.

The international literature that deals with the finance activities and public service provision chooses to restrict the use of PPADs term for formal agreements between government and private sector entities in order to provide works and services to the population. Thus, although they are instruments of cooperation between public and private spheres, would not be included in the concept of PPADs the various forms of fiscal incentives, classically inserted into sector, industrial and social policies; regional and urban planning instruments that promote private enterprise; and the availability of infrastructure directly by the

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State in order to encourage private investment, as for example human resource training programs directly targeted at enterprises and to the construction of power lines, among others.

It is worth mentioning the fact that the expression Public -Private Partnership (PPP), in the broad sense, has several meanings and can be used with various connotations. According to the literature of Anglo-Saxon origin, the concept of PPP is compatible with various modalities. The classification of these modalities depends, for example, on the level of public involvement, the ownership of the goods involved and on the risks assumed by the public and private sectors. Such a generalization, however, has caused much confusion among the various actors concerned with the issue, whether the media, government agencies, members of the private sector, consultants, development banks and the general public.

The strict concept of Public-Private Partnership adopted in Brazil defines a PPP as a special concession contract, which is distinguished from other partnership agreements between the public and private sectors because it involves the payment of consideration and the benefit of guarantees to the private sector, besides having behind a rigorous process of selection of projects to be considered by the PPP regime. Thus, partnerships between

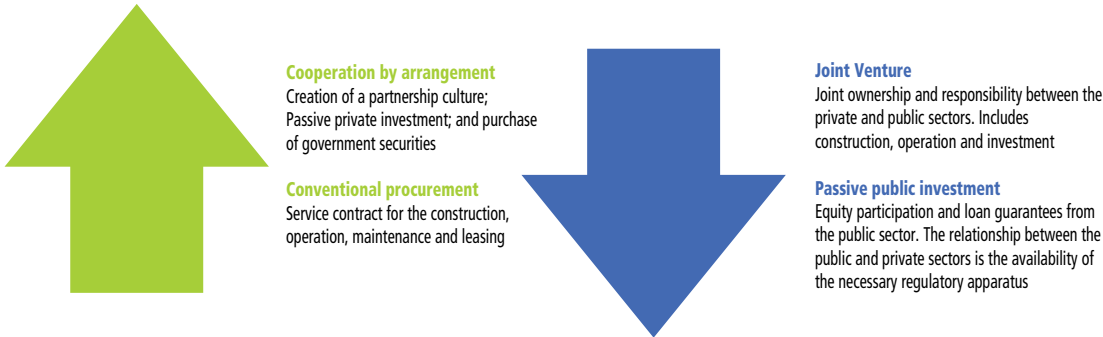
the public and private sectors in the broad sense will be called in this document as Public-Private Alliances for Development, to avoid confusion with the term Public-Private Partnership, since, according to Brazilian regulations, this is applied solely to the public procurement instrument provided for in the Law 11.079/2004.

Among the PPADs, various types of public contracts, including contracts and conventional concessions, make up the range of possibilities. The term encompasses all forms of cooperation between public authorities and private companies around projects of common interest, in which the state allows companies to carry out its functions and development projects with greater efficiency, by instruments of contractual nature.

The figure below shows, according to the broad concept, the systematization of partnerships between the public and private sectors.

In principle, the relationship between the two sectors admit a wide range of agreements, which should be defined depending on the nature of the project and its economic and political characteristics. Imposing some standards is required to speed project execution. However, these standards should not pose obstacles to the introduction of new arrangements.

Figure 2: Broad concept of Public-Private Alliances



Source: Own production

According to Ribeiro & Prado²⁴, Brazil has numerous cases of PPAs. Examples: a) precarious agreement instruments and technical cooperation agreements for execution of projects of common interest, such as technology development, innovation, urban infrastructure, etc; b) authorizations and licenses issued unilaterally by the government to public service provision; c) franchises (method often used by The Brazilian Post); d) public service concession contracts; e) asset leases in sanitation sector; f) contract and corporate joint ventures between state and private companies, including to participate in public services concession biddings; g) joint capital companies; h) participation of public banks, through subsidiaries such as private companies shareholders (an example is the BNDESPAR); i) Civil Society Organizations of Public Interest (OSCIPs as in Portuguese); j) Social Organizations (OSs as in Portuguese), k) Consortial Urban Operations introduced in art.2 of Law 10.257/2001 (Statute of Cities), with no claim to exhaust all possible examples.

The introduction and development of partnerships between the public and private sectors refer directly to the discussion about the State's role and attempt to overcome the lack of investment. In Brazil, the privatization process dates back to the late 80s and already in the 90s more than 100 federal and state companies were transferred to the private sector. Among the reasons for this process are the growing need for essential services and exhaustion of fiscal resources; inefficiencies and failure of the state model; managerial and technical knowledge accumulated by the private sector, but not present in the public sector, as well as the spirit of innovation of private enterprises; and the rational use of fiscal resources.

In 1995, the enactment of Law 8.987 instituted the so-called concessions in Brazil covering

mainly telecommunication and road sectors. In 2004, the enactment of Law 11,079 created the federal framework for Public-Private Partnerships, responsible for attracting the private sector for projects that, until then, were not attractive.

Generally, PPAD contracts have as purpose the deployment of public works or the provision of public services, specifically its financing, construction, operation and maintenance, as well as the transfer of ownership. This transfer can occur by reversal of property after the termination of the contract, lease or through acquisition by a party. The works and public services made available cover the sectors of economic and social nature. In the economic field, projects include initiatives in the areas of transport, telecommunications, water, sanitation and energy. In the social field, projects can cover the sectors of health, education, welfare and even services related to inherently public functions, such as administrative and police areas (database, penitentiary system, surveillance etc).

PPADs Critical Success Factors

In order to ensure that the development of PPADs is successful, various political, legal, economic, financial and managerial factors should be observed, given the complexity of the implementation of these projects.

Regarding the political environment, stand out:

- the existence and practice of solid planning of public policies;
- the general acceptance of the approach of the PPADs both by the government and by society;
- clarity of goals to be achieved by PPADs;
- the existence of a PPAD national policy;
- the institutional organization of PPAD policy through a PPAD Unit, for example;
- the commitment of various levels of government

24. RIBEIRO, Mauricio Portugal e PRADO, Lucas Navarro. Comentários à Lei de PPP: Parceria Público-Privada. Fundamentos Econômico-jurídicos. São Paulo: Editora Malheiros, 2007.

to the goals, guidelines and instruments of PPAD policy;

- the spirit of partnership and mutual trust;
- assurance of benefits to the public sector, in relation to project costs and risks;
- harmonization of cultures of public administration and private management;
- the process of communication and accountability;
- adaptation of employees in sectors mainly operated by the civil service; and
- the guarantee of political stability and continuity of contracts.

Regarding the legal framework, suitability factors of the selection and contract processes stand out, among which:

- the selection criteria;
- competition or protection policy;
- agility and simplicity of the legal process;
- assurance of fairness and transparency in the selection process;
- the contract design;
- technical quality of the project and selection of the appropriate technology;
- selection of the appropriate partnership structure;
- good composition of projects in portfolios, due to its consistent integration into government planning; and
- definition a realistic schedule.

Regarding the economic and financial aspects:

- good quality of analysis and economic and financial predictions;
- an effective involvement of the financial sector to financing sources access;
- effective participation and support from the government;
- proper management and risk sharing;

- adequate pricing policy of public services;
- the acceptability of the price;
- and an acceptable capital cost.

Finally, for management of the project and the contract to be efficient, stand out:

- the quality and autonomy of project and contract management;
- a clear definition of results to be achieved (outputs);
- an effective, fair and consensual measurement of concessionaire performance, linking the payment of consideration to established performance indicators;
- reduced bureaucracy and clarity of procedures;
- flexibility and re-negotiability of the contract;
- encouraging innovation and creativity;
- and the adoption of appropriate tools for evaluating policies.

As it is possible to note that the PPADs require an adjustment of the public sector, private sector and society in general to a new culture of public administration. There are many conditions to be met for the partnership to succeed and gain the support of critical actors in society.

Chapter 3: Public-Private Partnerships in Brazil

In Brazil Public-Private Partnerships, regulated by the Law 11.079/2004, are referentially situated between two traditional forms of procurement adopted by the government: what is called the Public Service Concession regime, established by Law 8.987/1995, and the Biddings and Public Procurement regime, created by Law 8.666/1993.

In the concessions regime, the private entity winning bidder takes over the management, risks and costs of the work without any pecuniary consideration by government. The only funding source derives from charges for users or any ancillary or additional revenue such as payment for investments and services provided. On the other hand, in contracts signed on the basis of Law 8.666, all the above aspects are the responsibility of government and the private partner only plays the role of service provider.

The PPP Act, in turn, allows for clear objectification of risk sharing and has the remuneration of the private sector linked to performance indicators previously defined in the contract. Moreover, PPPs are primarily associated with the provision of the services by the private partner. In this sense, it is forbidden to conclude contracts with an exclusive

purpose of supply and installation of equipment or execution of works. It is also necessary to give to the private partner the responsibility for the supply of services to be provided in built or refurbished facilities. Likewise, due to the association of service with works execution, it is forbidden the execution of a contract with a sole purpose of manpower contracting.

This law tries to overcome the limitation of the Concessions Act since it allows governments to supplement the income of the private operator when that cannot be recovered solely through fares. Thus enables the bidding of projects that promote social welfare, but are unprofitable and thus unable to attract the interest of the private operator without government subsidy. Another conceptual advantage of the PPP law is the conjugation, in a complementary manner, of various aspects of the Concessions Act and the Public Procurement Act.

Despite the diversity of concepts in other countries, Brazil chose to only call PPP the contracts defined in Federal Law 11.079/2004 that can be performed in two modes: sponsored concession and administrative concession.

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In a sponsored concession, the government supplements the income from the collection of fares. In an administrative concession, it is up to the Government, direct or indirect user of the services, full payment to the private partner.

The introduction of the PPP Act in the Brazilian legal framework had as its main purpose enabling projects that were unable to financially self-sustain, despite their high social and economic return, or allowing the hiring of services provided directly or indirectly to State whose contracting term was insufficient to cover the investment necessary for their implementation.

In order to mitigate the fiscal impacts resulting from the assumption of obligations that could compromise the public budget for a long period of time, a limit of 1% of Current Net Revenue (CNR)²⁵ for the sum of annual expenses related to PPP contracts signed by the Federal Government were established. The grant of guarantees and voluntary transfers by the Federal Government to the states, Federal District and municipalities is subject to the compliance by subnational entities, with the limit of the 5% of CNR on their annual obligations of PPP contracts.

More than ten years after the adoption of the Law 11.079/04 the interest in PPPs in Brazil and the number of projects in states and municipalities are increasing. A survey by the PPP Unit of Ministry of Planning, elaborated in June 2014 from public information available on Internet, indicates that there are 42 PPP contracts in progress, totaling approximately R\$ 105,4 billion of investments in areas such as urban and road transport, sanitation, health, safety, housing, administrative and customer service centers, and stadiums for the 2014 World Cup.

25. Complementary Law 101/2000 defines Current Net Revenue as the sum of revenues from taxes, contributions, property, industry, agriculture, services, current transfers and other current income, deducted, in the case of the Federal Government, the amounts transferred to the states and municipalities by constitutional or legal requirements and labor and social security contributions.

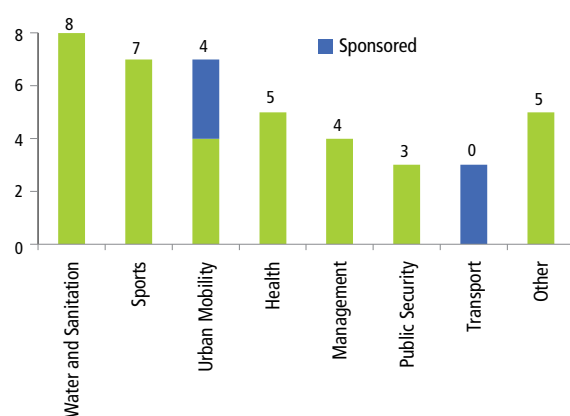
With regard to the distribution by Federation entities, there has been a leadership of the Southeast region, worth mentioning the projects developed in the states of Bahia and Pernambuco, both located in the Northeast region. Regarding ongoing projects, there have been identified 228 administrative or sponsored concession projects in development or bidding. There is little information available regarding the costs, knowing only that 38 projects account for a total of R\$ 100 billion. The situation of PPP projects can be seen in the table and graphs below.

Table 5: PPP Projects in Brazil

| Projects in Execution | | Ongoing Projects | |
|----------------------------|--------------|---|--------------|
| Item | Resultado | Item | Resultado |
| Number of contracts | 42 | Number of contracts | 228 |
| Administrative Concessions | 33 | Administrative Concessions | 96 |
| Sponsored Concessions | 09 | Sponsored Concessions | 28 |
| | | Other Modalities / Non-available / In Modeling | 103 |
| Total Contracted Value | R\$105,45 bi | Total Contracted Value (38) | R\$100,77 bi |
| Highest Contracted Value | R\$22,55 bi | Highest Contracted Value (Metro of Curitiba) | R\$12,83 bi |
| Lowest Contracted Value | R\$80,07 mi | Lowest Contracted Value (Cable-Stayed Bridge - Ceará) | R\$101,09 mi |
| Average Contracted Value | R\$2,57 mi | | |
| Term (years) | | Term (years) | |
| Highest Contracted Term | 35,0 | Highest Project Term | 35,0 |
| Lowest Contracted Term | 06,0 | Lowest Project Term | 08,0 |
| Average Contracted Term | 23,0 | | |

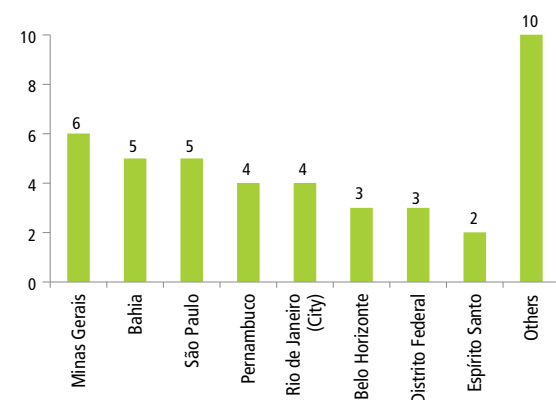
Source: Economic Advisory of the Ministry of Planning, Budget and Management, 2014

Chart 5: Contracts by mode and sector



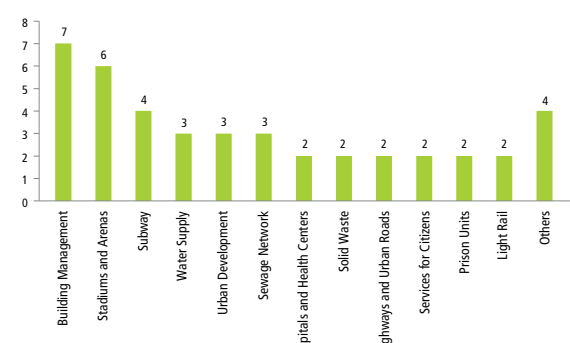
Source: Economic Advisory of the Ministry of Planning, Budget and Management, 2014

Chart 6: Contracts by Contracting Entity



Source: Economic Advisory of the Ministry of Planning, Budget and Management, 2014

Chart 7: Form of Public Intervention



Source: Economic Advisory of the Ministry of Planning, Budget and Management, 2014

It is noted the prevalence of PPPs in projects related to the daily lives of citizens and the explanation for

the greater diffusion of projects in states compared to the Federal Government is at least partly due to the federative distribution of public service provision. Because they are closer to the population and because they have less financial flexibility than the Federal Government²⁶, deficiencies in service delivery are more visible and population pressures are felt more strongly by subnational entities. For example, viable activities to be implemented through PPPs such as health, public safety and urban transport, are the responsibility of states and municipalities. Within the federal responsibilities, in turn, are concentrated financially self-sustainable projects, related to energy, transport and telecommunications, which in most cases can be developed through common concessions.

However, the different possibilities of partnerships with the private sector, and PPPs in particular are not a ready solution for every single project. It is always necessary to make a preliminary assessment to see which contract option is more efficient for the public sector. For this, it is appropriate for the contracting authority to be guided by objective parameters, which may benchmark its choice of this or that type of contract.

The option for partnerships with the private sector is recommended, often, not only to respond more directly to efficiency, but also for meeting the economic criteria. The cost of such partnerships in the long term, can ensure a more efficient use of public resources when compared to traditional contracts in which the public entity is responsible for the implementation of the project throughout its cycle.

26. The major fiscal restraint of the Federal Government is the compliance with the primary surplus target, set in the Budget Guidelines Act (LDO as in Portuguese). The states and municipalities, beside having strict limits of indebtedness, have restrictions for issuing debt securities on behalf of Law 9,496/97 which authorized the refinancing of state debts, and especially Resolution No. 43 of 2001 from the Senate, which, in its article 11, states that "until December 31, 2020, the states, the Federal District and the municipalities may only issue government bonds in the amount needed for the main refinancing, with their obligations updated, represented by this kind of securities."

It is important to note the fact that private partners can be paid after the investment. This characteristic of PPPs has contributed to an extremely positive situation with regard to compliance with deadlines. There is an incentive to meet the planned deadlines by the executors of works, since no payment will be made until service provision conditions are ready, which is not the case in the traditional contracting methods.

Given the constraints on the public debt and the need for recovery of the country’s investment capacity, there is the need to create alternative ways to pay for the public consideration, as for example, through the use of real properties related to the objects of PPPs whose exploration can increase the ancillary or additional revenues. These alternatives allow the implementation of different and important public projects without impact on government spending and no commitment of budgetary funds.

PPPs imply a profound change of culture in the public service. The inherent logic of the traditional contract of works or services is based on the exact definition of the manner in which the object of the contract is to be delivered, which transfers to the government all project risks. In PPPs

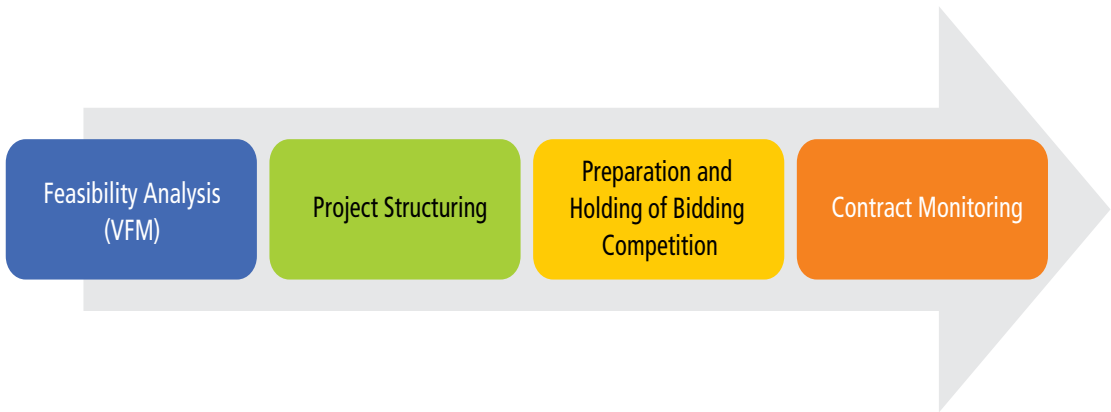
the logic is different, because the government starts to define the outcome. The contractual commitment is finalistic and extends the possibility of implementing efficiencies by the private sector. The public sector faces, during the modeling process of a PPP project, with the apparent conflict of choice between security resulting from the definition in detail of the means involved in the project within the traditional framework, and the fluidity resulting from the definition of expected results of a PPP project.

Structuring of PPP Projects

As already highlighted, PPPs aim to bring to public projects the innovation and management capacity of the private sector and provide an appropriate risk sharing management, thus optimizing the use of public resources. The option for using it requires also the execution of various phases whose summarized scheme is shown in the following figure.

The first important aspect when signing a Public-Private Partnership refers to conducting an analysis of the project’s efficiency gains in order to assess whether the PPP is the best project procurement

Figure 3: Execution Phases of a PPP



Source: Own Production

option. What traditionally is reflected in the expression “Value for Money”²⁷.

The literature²⁸ suggests that there are several factors that lead to a higher Value for Money (VFM) of PPP projects, among which are highlighted the reduction in operating and maintenance costs of the assets, the effective transfer of risk to the private sector, more fast implementation without increased cost, generation of additional revenues, the use of result specifications, establishment of payment mechanisms with incentives and penalties related to the performance and the existence of effective competition between well qualified private sector entities.

Thus, the option of structuring a Public-Private Partnership is only justified when the analysis of certain project results in a reasoned conviction that this is probably the most efficient route for the provision of certain public service. This can take place because the partnership will spend fewer public resources to achieve the same result or because better results will be obtained using the same resources.

It is critical, therefore, during prior structuring of a PPP, preparing both a qualitative assessment that points the PPP as the alternative indicated to enable certain project, and a quantitative analysis, with regard to the economic and financial aspect.

Thus, the challenge of the Value for Money analysis is to capture in an objective manner the balance of advantages and disadvantages of a PPP in order to ensure that the implemented Partnership presents

the appropriate equilibrium between risk and return for the public and private sectors. From the perspective of the public sector, the partnership project must be economically viable and optimize the use of available resources and, from the perspective of the private sector, the project must be financially attractive²⁹.

In the stage called Project Structuring, studies that enable the development of civil works, characterization of services to be provided, in addition to legal and financial modeling of the project, are contracted. These studies are essential for the preparation of the competitive bidding process for the private partner selection and preparation of the draft contract to be signed.

It appears, therefore, that the development of contractual arrangements that meet the peculiarities of each sector or project with appropriate risk sharing requires an intense dedication by the government in structuring thereof. The project structuring can be accomplished in several ways by the sector body, such as:

1. exclusively by the team of the agency responsible for the upcoming bidding of the PPP, which occurs in more mature sectors and that counts on technical team with solid experience on the characteristics of the works and services to be object of the concession;
2. with the additional support of external consultants or specialized companies, whose collaboration can occur through:
 - a) the common hiring of consultants;
 - b) realization of the procedure Expression of Interest (Eoi);

27. The British Terminology Value for Money refers to the socio-economic benefits for society (tangible and intangible benefits) obtained through the provision of a particular service by the private partner, in quality, vis-à-vis costs (tangible and intangible) to make such a service available through the traditional method of procurement, or direct provision by the State. Concept obtained on the website of the Unit of Public-Private Partnerships of the State of Minas Gerais: <http://www.ppp.mg.gov.br/oqueeppp/ploneGLOSSARY.2007-11-19.6874970178/ploneGLOSSARYdefinition.2007-12-07.0002697000?searchterm=valuation+for+mon> on 17/11/2008.

28. Grimsey e Lewis (2007:135)

29. Knight and Fox (2004: 189-191) argue that the process of seeking a partnership is costly and ultimately have implications to the limited potential private partners market, which has its willingness to participate affected by possible high financial losses that may arise negotiated from partnerships negotiated and unrealized. This risk, results in rising private prices included in partnerships that may be signed and causes more pressure on the negotiators, more delay in the process and consequently higher transaction costs.

- c) realization of Private Expression of Interest (MIP as in Portuguese); and,

3. Technical or financial cooperation of international organizations.

Regarding the means of elaborating the partnership studies, it is important to further discuss the procedure Expression of Interest and the Private Expression of Interest, highly debated topics among those that are willing to structure a PPP.

The use of Eol is not new and the procedure has existed since the 90s with the approval of the legal framework of common concessions (art. 21 of Law 8.987/95 and art. 31 of Law 9.074/95). This tool eases the rules adopted in the traditional procurement mode by allowing the private sector to submit, by its own risk, studies demanded by the government for the implementation of a PPP. There is possibility of cost recovery by the bid winner in the case that the studies are used by the government and there is no impediment for those who were willing to develop these studies also participate in the bidding process. In Eols, the public sector is the one who initiates the process

and makes a public call for the private sector to submit projects of public interest.

In the Private Expression of Interest, the legislation in force at the state of São Paulo allows the private sector to take the initiative to submit projects. However, if approved, the public sector should hold a public call and allow the participation of other stakeholders in the bidding.

The figure below summarizes the main components of the studies that form part of the structure of a PPP:

It is also important to emphasize that the opening of the bidding process is subject to the achievement of previous environmental licenses or the issuance of guidelines for the environmental licensing of the project. Engineering studies must contain sufficient information so that they can quantify the costs related to the works with an accuracy that reduces risks of failure. The reference project used in the bid is not binding with respect to the adopted engineering solution. Therefore, in compliance with the required technical parameters, the private partner is free to adopt the technical engineering solution that better suits the project.

Figure 4: Components of PPP Studies



Source: Own production

The demand study aims to estimate the number of potential users of services to be provided by the PPP. Such measurement is critical to scale the magnitude of the infrastructure to be built and the level of investments and services to be provided. It is recommended to estimate potential consumption of goods and accessory services that can be exploited by the private partner, as these constitute a source of additional revenue from the PPP which can decrease the amount of the consideration paid by the public entity.

The financial modeling estimates the amounts of consideration to be paid by the public partner. The calculation is performed in order to ensure to the private partner the average return on capital that is applied to the type of business of the PPP or similar activity. Appropriate credit lines for the project, guarantees and insurance to be hired, social and tax charges to be paid and all other cost components related to the partnership must be estimated. Along with forecasting and detailed statement of expenses, revenues of the PPP and its expected Internal Rate of Return (IRR) are projected.

The legal modeling must accurately reflect the allocation of risks between partners, have a strategy focused on promoting the competition among bidders and ensure efficiency to the bidding procedure in order to encourage its competitiveness.

The third structuring stage of a PPP refers to the procedures related to the execution of the bidding process. Bidding is held, its results published and the process proceeds to the approval, award and signing of the contract. These steps follow, in the absence of specificities, what is established by the general Biddings and Contracts Act. There is still in the PPP Act, similar to what occurs in the Concessions Act, the obligation to carry out public consultation prior to execution of the bidding. This step aims to improve the studies from contributions

of society received through consultation or public hearings.

Worth mentioning that the PPP Act incorporated an innovation when establishing the possibility of inversion of phases in the bidding, which sought to streamline the process while minimizing the possibility of administrative and judicial challenges that often occur when the qualification phase is prior to the opening of price proposals. The bidding of a PPP project has not only a formal character, since there is the need to establish mechanisms that allow full access to project details. This fact requires an interaction between the various actors involved in the PPP as managers, potential investors and regulatory agencies. It is essential that managers act in an isonomic and independent way in order to ensure the success of the process.

The last step in the structuring refers to the monitoring of the PPP contract, the stage when it is checked if the objectives for the provision of quality service were objectively met. One of the central problems that managers may come across in a PPP contract is the breach of its terms and the provision of a service by the private partner well below expectations. This is not an unusual phenomenon and it is often motivated by what is called “winner’s curse”, which occurs when the participants of the auctions make proposals unviable of being fulfilled. It also common among concessionaires to count on the lack of effective action by the supervisory bodies, because they know the political difficulties of enacting termination of the contract and assuming the burden of taking the concession and the possibility of service interruption.

So, to avoid extreme situations, it is necessary to carry out bidding processes in which potential winners are able to perform the services. This implies introducing in the announcement qualitative criteria for the qualification of bidders.

In addition, establishing effective requirements of financial and technical capabilities should be a standard practice during the bidding. The use of mechanisms that allow the concessionaire to demonstrate its financial capacity is essential to mitigate the risks of a problematic contract, although it can represent an additional cost to the project.

The issuance of contract fulfillment guarantees as a condition for signing, with high values and specific requirements in relation to their issuers, for example, ratings, should also be highlighted, as it generates the need for the winning bidder to use market mechanisms for such guarantees. In addition, the use of mechanisms already available, such as avoidance of participation in government biddings of companies that do not comply with their contractual obligations, is a measure to be adopted. Also, taking measures to strengthen the regulation and government oversight is essential to establish good contract governance.

Required Elements in PPP Contracts

The PPP Act introduced in the Brazilian contractual framework a number of innovations. All the elements considered in other countries as critical success factors for the celebration of these partnerships have been incorporated into legislation. Among which are: the concern about fiscal discipline; the appropriate allocation of risks between partners; the need for creating an institutional mechanism to coordinate the process of implementation of the partnerships; the requirement of objectively defining, in the contractual instrument, risk allocation between partners; as well as incentive mechanisms, targets and performance standards.

In addition, it is worth mentioning the requirement for projects to be considered suitable for running

via PPP, to have estimated amounts exceeding R\$ 20 million, with minimum terms of 5 and maximum of 15 years of service. These requirements are intended to prevent unlimited use of PPPs while reducing the range of eligible projects, and seek to direct the VFM of projects, since the literature points out that the high cost of development of a PPP project and its realization would not be justified in small value contracts.

Other mandatory contractual clauses include:

- the term of the contract;
- the requirement to investors and sponsors of the project of establishing a Special Purpose Company (SPC), whose assets and liabilities are off-balance sheet of the shareholders, limiting their liability to the capital invested in the project;
- forms of consideration and updating of contractual amounts;
- the mechanisms for updating the services to be provided;
- conditions for hiring third parties;
- the penalties applicable to contractual breach;
- characterization of what is default by the public partner;
- the means to the end of the contract;
- the performance assessment criteria;
- guarantees for contract enforcement and insurances to be hired by the private partner to mitigate contractual risk;
- the sharing of economic gains resulting from the reduction of financing risks;
- discrimination of goods that compose the concession after contract enforcement;
- the need for retention of private values required for repossession of goods that show detrition or defects;

- the possibility of using mediation and arbitration as a means of conflict resolution between the parties;
- the introduction of the mechanism “step in rights” which translates to the right of the financier to assume the concession in case of difficult economic and financial situation..

A final factor incorporated by the PPP Act that deserves to be highlighted is related to the issuance of public guarantees to the private sector with respect to the payment of future considerations. The purpose of such guarantees is to reduce political risk and uncertainty to private partners, due to the long term of the service provision contract. The general logic of the stipulation of a guarantee of this nature implies that those interested in a concession contract estimate the risks associated with default by the grantor and price such risk. Thus, in the absence of a guarantee mechanism of the government obligations in the contract, bidders require greater financial return when submitting economic proposals during the bidding.

Public-Private Partnerships Guarantees

Risk mitigation mechanisms are essential elements in the structuring of PPP as Project Finance and make the project more attractive and eligible to the funding from financial system. The part of the risk distribution that is up to the private concessionaire is mostly covered by mechanisms of guarantee, surety and insurance offered by companies in the financial system. However, other risks inherent to the grantor, non-manageable and uninsurable risks, do not find compatible coverage in the market, which requires the public sector to be prepared to deal with these risks through guarantee instruments that transmit the necessary security to the financial sector in mitigation process.

The PPP Act established some alternatives for structuring these guarantees as:

- **Guarantee Fund:** accounting entity without legal personality, created by law in order to give financial support to the PPP program, whose beneficiaries are partner companies defined and qualified under the law.
- **State Guarantee Company:** it has the same assignments of the Fund, and is governed by private law. Its capital may be composed of stocks, personal property, real estate, government bonds and other assets.
- **Capture of the Payment Flow of Participation Funds of States (FPE as in Portuguese) and Municipalities (FPM as in Portuguese)**³⁰: constitutional transfer of part of the federal taxes collection to states and municipalities.
- **Binding of Receivables:** include royalties, such as mining and oil, water and sewage receivables, grants and payment of dividends.
- **Pledge of rights:** the grantor gives in pledge to the concessionaire, free and clear of any liens, assets such as government bonds.
- **Guarantee Insurance:** possibility of hiring insurance with domestic insurance companies not controlled by the government, international insurance companies and multilateral agencies.

Furthermore, the Act established to the Federal Government, its agencies and public foundations, the Guarantee Fund for Public-Private Partnerships (FGP as in Portuguese), of private nature and with its own equity, separated from the assets of the shareholders. According to the parameters, the payment of FGP quotas can be made in cash, government bonds, real estate, personal property,

30. The granting of guarantees by government entities is directly related to item III of art.163 of CF / 88, and Articles of CF / 88 52 VII and VIII, 160 and 167, III and IV and §4. The infra constitutional plan, the art.40 of the complementary Law No. 101/2000 (Fiscal Responsibility Act) governs the issue of guarantees and counter-guarantees, allowing federation entities to grant guarantees in credit operations, within the limits established by the Senate

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including shares of federal joint capital companies exceeding the amount necessary to maintain their control by the Federal Government. The creation, administration and management of the FGP fell to the Brazil Bank, an entity indirectly controlled by the Federal Government.

Since the publication of the PPP Act in 2014, the articles dealing with the FGP suffered several modifications. In 2011, it was introduced the possibility of leveraging the Fund. In 2012, it was established that the FGP could grant guarantees to the Federal Government, states, municipalities and the Federal District. The most significant change, however, occurred with edition of Federal Law 12,712/2012 which authorized the Federal Government to participate with investments in the limit of R\$ 11 billion in a guarantee fund called the Infrastructure Guarantee Fund (FGIE as in Portuguese). It also created The Brazilian Guarantees and Fund Managements Agency (ABGF), a public company that aims to play securitary activities and manage, administer and represent the guarantee funds of the Federal Government. According to the new law, the FGIE can guarantee PPP projects, PAC projects, or other projects to be defined by act of the Executive Branch, in addition to grant guarantees to contracts of states and of the Federal District. To date, it is not clear what will be the rules for the granting of guarantees by ABGF and there is no clarity as to the destiny of FGP.

After the approval of the federal legislation of PPPs, many states and municipalities have set up guarantee funds in a similar manner to that established by the Federal Government. However, as many states and municipalities did not have quality assets capable of being used for granting of guarantees, such funds were not even implemented. Those which have decided to develop a partnership program, had to develop their own mechanisms, which, in most cases, were based on binding of receivables.

In the case of Minas Gerais, the adopted strategy was the pledge of receivables resulting of State Government funding, as well as debentures and bonds of the federal public debt owned by the state of Minas Gerais, as in the administrative concession contract of the criminal complex in the metropolitan region of Belo Horizonte and the administrative concession contract for renovation and operation of the Mineirão stadium. In the MG-050 project, the guarantee depends on the profits of the Economic Development Company of Minas Gerais (CODEMIG as in Portuguese) as a partner of Brazilian Company of Metallurgy and Mining (CBMM as in Portuguese). If those profits are insufficient, CODEMIG should complete the amount needed for the guarantee to meet an eventual situation of default by the grantor.

In the state of São Paulo, the Partnership Company of São Paulo (CPP as in Portuguese) was created in 2004. The Company has as one of its purposes the provision of guarantees in PPPs settled by that state or by entities owned by its administration. In the case of Line 4 of the Metro, it was created a Fixed Income Investment Fund to support the obligations assumed by the CPP in the concession contract. The CPP is the exclusive holder of all accounts, whose total was given in pledge to the concessionaire of Line 4, through a contract signed on December 22, 2006.

The state of Bahia created a mechanism by which it links the federal resources that the state is entitled to receive, originated from the State Participation Fund (FPE as in Portuguese), to an account specifically designed to receive such funds, with the aim of being offered as guarantees to private partner. This mechanism was used in the Suburban Hospital and in Fonte Nova Stadium. In this case, this structure functions as a means of payment and, from an economic point of view, is configured as a guarantee to the extent that, in theory, the transfer flow originated from the FPE tends to be permanent.

It is also a common practice in the contracts of subnational entities, including accessory mechanisms to operationalize the guarantee as attachments of the concession contract, as for example, contract of escrow account with the financial institution responsible for managing the guarantee. This practice, in principle, aims to strengthen the mechanisms of guarantees proposed by the grantor.

However, after the initial experience provided by FGP³¹ at the federal level, and the experiences of the states of Minas Gerais, São Paulo and Bahia, in relation to the mechanisms to ensure the consideration of the public sector, the national context points to a new cycle. States seek new mechanisms to systematize and to give scale to guarantee mechanisms. The Federal Government, through ABGF³² started a second cycle in the structuring and systematization of risk mitigation mechanisms to improve Project Finance structures and support the coverage of non-manageable and uninsurable risks. In this case, through the Infrastructure Guarantee Fund which has as its clients the Special Purpose Companies concessionaries of infrastructure projects.

The model of ABGF is particularly interesting because of its potential on leveraging. Its main challenge at the moment is the implementation of FGIE, which will ensure the main and most important infrastructure projects in Brazil. It is important to emphasize that ABGF does not compete with or promotes the crowding-out of the private, financial or insurer sector, since it will not offer guarantees or insurance where the market is acting, or only complementing the risk

coverage. In addition, private banks can make use of it provided that they become shareholders of FGIE, being required a symbolic subscription in shares of 0.01% of the required guarantee.

The model of FGIE predicts a 5x leverage for each Real contributed to the Fund. Considering that 30-40% of guarantees on the project CAPEX will be granted, each Real contributed to the Fund would be enabling from 12.5 to 16.7 times in investments. This estimate is converging with the need for capital versus the prospective pipeline, as the capital of R\$ 11 billion authorized to the FGIE³³ would leverage a total investment of US \$ 137.5 to 183.7 billion. Whereas around 70% of the CAPEX is covered by financing and another 20% go to the capital market, this would mean that the performance of ABGF would be enabling from R\$ 96 billion to R\$ 130 billion of financing, and another R\$ 27 billion to R\$ 37 billion of securities issued in the capital market in an expected horizon of five years.

Risks in Public-Private Partnerships

The implementation of a project through a PPP may involve different types of risks. Allocating risks to those who have more control over these creates a powerful economic incentive because of the possibility of losses if they materialize. Thus, several necessary steps are taken to minimize the risk and losses from its materialization.

The Political Risk can certainly be indicated as the most important in Public-Private Partnership projects. Because it is a long-term contract, which can reach 35 years and perpetuate for up to eight changes of government, the political risk of a PPP is of great importance and justifies the adoption of a system to ensure contract compliance by the public sector. The political risk is priced in projects and can make them more expensive,

31. Authorized by art. 16 of Law N°. 11.079, of December 30, 2004, having initially as the sole shareholder the Federal Government. It is administered by the Bank of Brazil S.A.

32. The Brazilian Guarantees and Fund Managements Agency, a public company under the Ministry of Finance, as a corporation, created by Decree N°. 7976, 2013, as authorized by Law No. 12,712, of 30 August 2012, with the purpose, among others, to manage guarantee funds and provide guarantees for risk operations diluted in areas of great economic and social interest.

33. Law N°. 12,712 / 2012 (art.32).

since it creates fear of participation in the private sector and reduces the attractiveness of projects. The structuring of good public guarantees, with assets of liquidity and security can mitigate this risk, reduce costs for the public administration and increase the attractiveness of the project.

The risk of operational performance usually is borne by the private partner. The linking of payment with performance contributes to greater effectiveness of the projects, with regard to meeting deadlines and budget, as well as service maintenance in adequate quality to the demands of users. It is important to highlight that the increase in quality means better delivered results and therefore greater VfM. The literature suggests that the State would be the most benefited by an efficient structure for allocating operational risk. This division would imply in more efficient competitors, which, in turn, would result in better formulations of proposals in competitive bidding, transferring a part of the gain arising from the reduction of costs to the government.

The demand risk is one of the highest impact factors in the economic and financial assessment of a Public-Private Partnership project because it directly influences the revenue forecast calculation, impacting the VfM. The party that is responsible for taking the demand risk is dependent on the volume of service utilization to generate the remuneration required for the project.³⁴

An innovative point introduced in the PPP concept is the division of construction risk. It encompasses all the risks involved in the construction process, such as risks of project, technological, environmental and of weather conditions, delivery delays, among others.

34. According to Bain (2004), for example, has warned that the mean flow was estimated in European roads 20 to 30% higher than the actual demand empirically verified. The Value calculation primer for Money in PPP projects, prepared by HM Treasury, has also considered an optimism the discount factor in their forecast accounts and estimated volume generated for the service in question.

Regarding the risk of expropriation, it is common practice in federal, state and municipal spheres, transferring to the private sector both the assignment of carrying out the executory expropriation acts, as some of the risks related to this assignment, as for example, risk of real estate price change and risk of delays in the expropriation. Best practices show that it is necessary to list the data to carry out a summary analysis of the cost-effectiveness, control of the process and social impact of the transfer to concessionaries of the obligation to carry out evictions and expropriations. If it is decided for the transfer, feasibility studies should consider concessionaire costs for land regularization of project installation locations.

The currency risk is observed in projects where there is a significant portion of the financing from abroad, or where costs depend on raw material or some type of foreign service. In such cases, the fluctuation of the local currency can profoundly impact the profitability and therefore the feasibility of a project. Typically, the currency risk is allocated to the private partner who can use currency hedging mechanisms, derivative instruments in stock exchange (in Brazil, represented by BM&F) or maintain sufficient financial stock to protect itself from sudden changes in the prices of inputs. Such measures are effective in preventing and mitigating this risk, although it allocates to the project an additional cost.

Regarding the inflation risk, if there is not a proper mitigation strategy, it is possible to undermine, among other things, the operating performance of the private partner, since its costs may be increased due to inflationary influences and tariff affordability practiced to end user. Traditionally, this risk allocation is made to the public partner, as the private partner can do little or nothing to prevent it. The transfer of responsibility is made in most observed cases, through the indexation of payments to the private partner to official inflation

indexes in the country. It is necessary to evaluate the influence of inflation on project costs in order to choose the most relevant the indicator to the contract.

The risk of force majeure and unforeseeable circumstances is the only one specifically mentioned in the federal law, as it is of more delicate approach. Since it is not predictable and much less easily mitigated, this risk is traditionally divided between the parties and, when possible, insured. In some cases, however, the occurrence of any incident caused by force majeure or unforeseeable circumstances may be the cause to bilateral breach of contract.

The regulatory risk is more easily allocated to the public partner, as the possible regulatory changes are under its direct control. Another important point which emphasizes the need to allocate this risk to the public partner, is the fact that the transfer of the risk of legal and regulatory changes to the private partner would create a perverse economic incentive for the State to multiply the changes in the contract, obtaining additional services at zero cost.

In PPP and common concession contracts, there are several situations in which the contract can be broken unilaterally by the parties, which creates the risk of contract termination. In Brazil, it is called expropriation the early termination of the contract by the granting authority, due to political motivation. It is called rescission the early termination of contract by the concessionaire, due to breach of contract by the granting authority. As such events are not controllable by the concessionaires, there is, on the market, available insurance that allows the private entity to socially dilute this risk.

Thus, both in the case of expropriation, as in the case of rescission, the granting authority should, in theory, indemnify, in cash and in advance, the

concessionaire for investments not amortized. It must be included in the reparation, the dividend distribution flow provided to the shareholders of the Special Purpose Company (SPC), adjusted to present value at a market rate, such as the SELIC rate. In the case of expropriation, there is already an expressed legal requirement for the reparation to be prior. In the ideal scenario, it would be necessary for the PPP contracts to establish appropriate rules for calculating the reparation for the investments made by the private entity and not amortized.

There is also the possibility of intervention by the granting authority in the event of poor service provision by the concessionaire, and the risk of discontinuity in service provision. This is a sensitive topic and the rules on interventions present in legislation mention, in general terms, external contours and the procedure for the declaration of intervention and the contracts are often only limited to reproduce it. This aspect has not been sufficiently addressed, since the political incentives are always in order to not intervene due to detrition established for the Government when taking control of a problematic concession and thus become subject to liability for the failure in service provision.

Challenges for Public-Private Partnerships

Among the challenges involved in the implementation of a PPP, it is possible to identify some issues that need to be overcome because of their ability to enhance the risk. It is necessary to start an institutional strengthening process that gives empowerment to the sectors, allowing more decisions to be made at the technical level, which can contribute to make the approval process of projects faster, since these have a high degree of complexity. For those cases where there are no

effective managers with skills in certain areas of knowledge, it would be important to have expert advice to act in the PPP process, especially in the modeling definition phase.

It is worth noting that the structuring of PPPs requires specific technical expertise and detailed studies, and much of the public officials do not yet have the adequate skills to conduct the implementation of a PPP, either as regards to the development of modeling or to the development of the bidding process. Thus, a first challenge is to empower managers and civil servants to act in this deployment.

Furthermore, ideological barriers that limit the use of PPP as a public management tool must be overcome. Given the lack of knowledge on the subject, a lot of resistance to the adoption of these partnerships emerge, without taking into account all its legal aspects and all the doctrine on the subject. Thus, it becomes essential to clarify the responsibilities of each party and differentiate the model over others as privatization and outsourcing, in order to demystify Public-Private Partnerships.

Another important aspect is related to the risks incurred while setting the modeling. There are three basic ways to establish the modeling, as mentioned before, but it is essential to have managers capable of effectively acting at this stage of a PPP structuring. Currently, the Expression of Interest is a widely used way, through which private representatives present proposals. However, if the public sector is not able to properly evaluate these proposals, there is a risk of becoming a hostage of the models presented by the private sector.

It is important to highlight that project structuring by Eol brings incentives that may not be beneficial to the public sector. This is because the companies authorized to draw up the required technical studies may participate in the bidding. This possibility encourages companies to not disclose all the information they have in the studies. Usually there is no interest in making public

details of a strategic nature in determining the financial parameters of the business, essential to submit a competitive proposal in the bidding procedure. In this scenario, the studies made by Eol may financially favor those interested in the bidding. Thus, it is important to make sure that public staff critically evaluate the Eol, eliminating comparative advantages in front of favorable bias to potential private partners interested in the business. It is therefore necessary to develop an institutionalization process of the Eol, with clear rules for its use, in addition to training public officials in order to make them more capable to effectively act during the procedures.

Managers must be able to effectively structure, bid and oversee PPP projects. The structuring and management of guarantee mechanisms and funds pose a risk to the bankability and to the final cost of the project, directly impacting on the final Value for Money. From a process point of view, this risk may result in delay in the viability of the project, in waiting times to legally, by regulations or financially enable the mechanism, as well as in project reprocessing.

Recent experience indicates some problems commonly incurred in the preparation and implementation of state and local laws that authorize guarantee mechanisms, such as the failure to clearly provide for the assignment of future revenues or pledge of revenues as guarantees. It is also common the creation of funds without concern to characterize them as a private entity. There are still difficulties in the public procurement of guarantees agents, which leads to the hiring via state development agencies and banks, which are subject to limited political interference and are supervised by the Central Bank³⁵.

35. Adapted from the presentation of Mauricio Portugal in the “Seminário 10 anos de PPP na Bahia”, SEFAZ / BA: Salvador, September 2014, displayed on the site: <http://www.sefaz.ba.gov.br/administracao/ppp/Garantias%20de%20pagamento%20p%C3%BAblico%20em%20PPPs_Maur%C3%ADcio%20Portugal.pdf>

In this context it is important to restore or structure federal and state mechanisms that fulfill the role of guarantee fund for Public-Private Partnerships, of independent nature, such as guarantee funds of private nature. This structuring should enable effective use of the fund to guarantee the fulfillment of public consideration and protection against political risk. This risk has been considered as very high in the country, especially in view of the changes recently observed in administrative contracts. The effective structuring of public guarantees is an essential success factor for the implementation of PPPs.

With specific regard to PPP projects, two challenges must be noted. The first is the need to adjust the PPP model to the legal framework, avoiding the use of the nomenclature in different models, which generates analysis difficulties to the control bodies. The second is the need to emphasize the qualitative aspect of services, enabling the public consideration to partly remunerate the quantity and partly remunerate the quality of the services provided through PPP contracts.

Furthermore, it is important to create tools that enable making adjustments in contractual objects, for example, in the case of excess demand. This fact has been verified in some PPP projects in healthcare, where new units, which offer better services, become more demanded by the population. This scenario can cause imbalances in economic and financial equations, which makes necessary to have a legal provision that allows for adjustment of the objects and contracts.

These aspects should be strongly considered as essential to change the current framework of PPP implementation, allowing its use in a more efficient way and contributing to the resumption of investment in areas where there is the provision of services of government responsibility.

Expected Outcomes in Public-Private Partnerships

PPPs seek, from an economic point of view, to maximize efficiency gains by transferring to the private partner the obligation of carrying out the investment and keeping it over the lifetime of the contract. To the government, it remains the task of controlling the quality of services, since the payment to the private partner is conditional on performance. Among the main advantages of using PPPs, it is worth highlighting the knowledge transfer and response time, business vision, incentives to innovation, and especially complementarity of private resources added to public resources³⁶.

Given these theoretical aspects, it is expected that the use of Public-Private Partnerships allows the State to implement a greater number of public policies, enabling the expansion of supply with quality services. It is also worth noting that the approval of the Brazilian legal framework represented a first step in the consolidation process of PPPs as an additional instrument for achieving the investments that the country so seriously needs.

36. Faulgner (2004: 66) indicates that the PPP has three advantages: it allows the government to develop public policy initiatives, allows a means of private sector to complement, not replace, government resources and encourages the transfer of skills between the two sectors. In the same line of action, Pollitt (2000: 23) points out as advantages the possibility of overcoming the financial constraints, the enthusiastic response of the private sector and incentives to innovation. In turn, Grimsey and Lewis (2007: 51) state that the PPP allows the use of innovations from the private sector and its business vision associated with planning and regulatory control of the public sector.

Examples of PPP Projects in Brazil

PPP Line 4 - Yellow of Metro of São Paulo

The Line 4 of the Metro of São Paulo, the first PPP contract signed by the state of São Paulo in November 2006, provides for the supply of 29 trains in two phases and the operation of the Line for 32 years, connecting the Estação da Luz in São Paulo the municipality of Taboão da Serra. The estimated investment was of R\$ 5.6 billion, distributed as follows: R\$ 4.6 billion of public investment and R\$ 1 billion of private investment. The criterion of judgment for deciding the winner of the bid was the lowest price.

Risks and Guarantees:

In addition to the pecuniary consideration, in risk mitigation situations, there is the possibility of additional payments by the state government for the following circumstances:

1. delay of more than three months on the conclusion of the infrastructure of the stages set out in the grantor responsibility contract;
2. mitigation mechanism of the risk of demand that has a system of deviation compensation bands in relation to the demand projection. It goes for the concessionaire and for the granting authority, if the actual demand is below or above the projected. In summary form, the band system operates as follows:
 - Real quarterly demand up to 90% or 110% of the projected demand, there is no compensation.
 - Real quarterly demand between 90% and 80% or between 110% and 120% of the projected demand, there compensation of 60% of the difference.
 - Real quarterly demand between 80% and 60% or between 120% and 140% of the projected demand, there is compensation of 80% of the difference.
 - Real quarterly demand among below 60% or above 140% of the projected demand, there is discussion for contractual rebalancing.

The contract also provides for mitigation of currency risk, exclusively in relation to relevant impacts of the variation in the Real exchange rate in the face of the US dollar, undermining the debt service of the private partner in foreign currency. The compensation by the granting authority would correspond to 50% of the foreign exchange impact, calculated as defined in the contract based on US \$ 1 reference.

PPP of Sistema Produtor do Alto Tietê ETA Tietê Taiaçupeba (SSRH/SABESP)

In June 2008, the administrative concession contract Estação de Tratamento de Água do Reservatório de Taiaçupeba, *Sistema Produtor do Alto Tietê ETA Tietê Taiaçupeba* (SSRH/Sabesp) was signed, in order to increase the capacity of treated water in metropolitan region of São Paulo, through the construction of 17.7 km of water mains and four reservoirs of 70.000 m³. The contract has a term of 15 years and the planned investment was R\$ 310 million.

Risks and Guarantees::

As regards to events that could change the budget execution, it is worth clarifying that the guarantee provided in the PPP contract is restricted to the payment of pecuniary consideration. This translates into an inability to extraordinary payments, as these payments are already budgeted, due to the characteristic of expenses of continuous nature. In the case of the Alto Tietê PPP, all risk related to the granting authority was fully assumed by Sabesp.

The PPP project is an administrative concession contracted by Sabesp, a company that is not dependent and does not use guarantees provided by CPP. Sabesp has corporate governance mechanisms, which include specific procedures for assessing its ability to financing, investment and payment of the consideration, minimizing fiscal risks concerning these PPPs.

PPP of Tamoios Highway

In December 2014, it was signed the sponsored concession contract Tamoios Highway comprising the provision of operation and maintenance of Existing Systems of Highway SP 099, with the doubling of the mountain section (17.08 km) and plateau section (3,92km). The PPP includes management, maintenance and conservation of mountain and plateau sectors, and contours. The estimated investment is R\$ 3.9 billion, being R\$ 2.2 billion from the public sector and R\$ 1.7 billion from the private sector. The concession term is 30 years.

Risks and Guarantees:

The main risk of the project lies in the geological conditions of the mountain sector, which was shared between the private partner and the granting authority. Thus, if there are geological occurrences in the area where should be carried out the works of expansion (mountain sector) by the private partner and being those unknown by the parties, the execution schedule can be adjusted between partners. The goal is to allow such eventualities to be properly addressed by the concessionaire, guarantying the economic and financial balance of the contract.

To make the project viable, the Government of the State of São Paulo chose to conduct the investment of R\$ 2.18 billion, guaranteed by the grantor through financing and, complementarily, by budgetary resources, while the corresponding financing contract is not signed by the private partner. The investment of budgetary funds is secured through the granting of real guarantees by the pledge of receivables belonging to the Department of Highways (DER/SP), to road concession contracts, and complementarily by pledge of shares of the Investment Fund owned by the Transport Agency of State of São Paulo (ARTESP).

PPP Suburban Hospital of Bahia

The Suburban Hospital (HS), the first public hospital in Brazil to operate and made viable through a Public-Private Partnership (PPP), started its operation in September 2010. The unit is intended to urgent and emergency care.

The civil works were done by the state of Bahia, through traditional procurement, and cost about R\$ 54 million. The investments made by the concessionaire to equip and start the service were approximately R\$ 42 million in the first year. The total investment is estimated at R\$ 58 million. The concession term is 10 years and the estimated value of the contract was R\$ 1.03 billion, with a maximum consideration of R\$ 103 million per year.

The Hospital benefits about 1 million inhabitants from all over the suburbs, as well as the population of neighborhoods like Valéria, Cajazeiras, Castelo Branco e Pau da Lima and municipalities in the metropolitan region of Salvador. The unit began operations with 298 hospital beds, of which 30 were home care. In 2012, the hospital increased its capacity to 373 beds, 60 of home care. The remuneration of the concessionaire is given only through public consideration. The PPP includes not only the provision of equipment and material, but also the entire health care workforce (doctors, nurses, social workers etc).

Risks and Guarantees

There was a need to redefine the scope of the contract due to the lack of emergency units on that location. In addition, the quality of service and the high degree of population satisfaction substantially increased the demand. The cost of staff is significant and influenced the rules of remuneration due to the need of compliance with trade unions agreements. Regulatory issues also limit the possibility of exploitation of ancillary revenues and the PPP does not include services of drug logistics, a major problem of public health service. The payment flow links federal funds from the State Participation Fund (FPE) to an account specifically designed to receive such resources that can be accessed by the concessionaire.

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Chapter 4: Consortial Urban Operations in Brazil

With the enactment of the 1988 Federal Constitution, the Brazilian government began to adopt new criteria when it comes to the concept of the city due to the adoption of new urban principles, which the most remarkable was the introduction of the social function of property. This principle is the idea that the rights provided and protected by law must be used in attention to their social function, otherwise the holder can lose this right. In this context, the old rule that satisfying the public interest is the sole responsibility of public authorities³⁷ is broken. Under the new constitutional point of view, all citizens that are holders of rights should exercise them according to their purpose. Thus, the obligation to serve the public interest is passed to the particular, even in the conduction of private law transactions.

The constitutional rules that link the right to a legal duty of attendance to a particular social function can be seen when analyzing property rights. This right is constitutionally guaranteed, but can be removed from its holder if this does not give it the proper destination or for reasons of public interest,

through the use of prescription or expropriation. Apparently, the State seems to be encumbering the particular when transferring responsibilities that were once of its own duty. However, there is in the law a concept of democratization. The particular, especially the citizen, becomes more present in carrying out public policies of which he or she will be the beneficiary. There is actually a search for legitimizing State actions, empowering the society to participate in the development of a more egalitarian State³⁸.

It is in this context that fall within the Consortial Urban Operations (CUOs), provided for in Articles 32, 33 and 34 of Law No. 10.257/2001, the City Statute, which regulates articles 182 and 183 of the Federal Constitution. Following the new constitutional order, this instrument has as its foundation the partnership between the government and the private sector³⁹. It is considered a Consortial Urban Operation the set of interventions and measures coordinated by the municipal government, with the participation of owners, residents, permanent users and

37. CARVALHO FILHO, José dos Santos; FORTINI, Cristiana. Operações urbanas Consorciadas. Revista Interesse Público, Belo Horizonte, Ed. Fórum, v. 10, n. 50, p. 243, jul/ago. 2008.

38. *Op. cit.* p. 244.

39. CARVALHO FILHO, José dos Santos. Comentários ao Estatuto da Cidade. 5. ed., São Paulo: Atlas, 2013. p. 276.

private investors in order to achieve structural urban transformations, social and environmental improvements in one area.

The City Statute defines that a specific law must approve the CUO according to the city master plan. The law, therefore, only formalize the plan of the Operation, which consists of a beforehand accomplished project, containing the necessary studies to assess the viability of the Operation. Thus, the project will contain several characteristics such as: definition of the area to be affected, basic program of occupation, social service program, purposes, neighborhood impact study, counterparts to be required from the private sector, forms of control and nature of the incentives to be granted.

As noted, the master plan of the city must foresee the possibility of deploying the CUO in a particular region, since, according to the Federal Constitution⁴⁰, the master plan is the basic tool of development and urban expansion. In this sense, it is clear that if the law that approves a CUO is at odds with what is established in the master plan, the first will not be valid, because there is the need for its prediction in the plan.

This instrument is not something recent. In Brazil, local governments have used this method before the enactment of the City Statute. Its appearance dates back from the 80's, by including the possibility of CUOs in the bill of the Master Plan of São Paulo in 1985, in order to carry out structural works which were mobilizing private capital. However, its concept arises from the 70s⁴¹ and it is not exclusive to Brazil. As will be shown

later, other countries also use this tool to carry out urban improvements.

The CUO is a tool aimed at structural improvement of the cities, counting on the partnership between the municipal government and various private sectors that will benefit from the operation and thus should contribute in proportion to the benefit obtained. Thus, the Consortial Urban Operations represent an urban improvement tool. A public policy that aims at a structural improvement in a given region, with the completion of various interventions. These may include structural works, works of social improvement (hospitals, schools, parks), environmental improvements; among others as necessary to improve the infrastructure of the place in a balanced way, ensuring a better quality of life to the people of the area.

Within the CUO project, it must be provided the full costs of the Operation, as well as its means of financing. For this, there is the possibility that the public sector launch bonds, Certificates of Additional Construction Potential (CEPAC as in Portuguese), which aim to fund Operations, or require other counterparts of the participants of the Operation. It is important to highlight that the CUO is a public policy and that the public interest must always be ahead of private interest. So, in order to ensure that there is no distortion of the instrument, the government should, from designing the project, seek a balance that allows the realization of urban improvement, in view of the private capital, but favoring the population that is inserted in the region to be affected.

The CUO participants will be the public sector, represented by the municipal government, and the private sector, represented by the owners, residents, users and private investors. The concept assumes that representatives of civil society should address the municipal administration to apply for the realization of urban improvements. The government should, as the law allows, undertake

40. Art. 182. The urban development policy carried out by the municipal government, according to general guidelines set forth by law, is aimed at ordaining the full development of the social functions of the city and ensuring the well-being of its inhabitants. “§ 1 The master plan, approved by the City Council, compulsory for cities of over twenty thousand inhabitants, is the basic tool of the development policy and urban expansion (our translation and emphasis)”

41. MUKAI, Toshio. Operações Urbanas Consorciadas. Fórum de Direito Urbanístico e Ambiental, Belo Horizonte, v.6, n. 34, p.81, jul/ago. 2007.

the project, containing the necessary studies for the creation of a specific law to institute the Operation. Although the City Statute defines that the competence to carry out the operation is of the municipality, nothing prevents states or even the Federal Government to participate. Especially when the urban improvement exceeds local interest⁴², such as in metropolitan issues like mobility, health, solid waste, among other.

Among private participants of CUOs:

- a) **Owners:** They are the owners of buildings that are within the area where the Operation will be performed. If they choose to join the CUO, they will be the biggest beneficiaries of the interventions.
- b) **Residents:** They are the people who live on the area without having title to the property, such as renters, tenants, lending beneficiaries and family members of owners.
- c) **Permanent Users:** Following the exclusion rule, they are those who use the area often without being able to be classified as owners or residents. As an example of permanent users are workers, students, servants and people who use the area for other reasons.
- d) **Private Investors:** These represent the most complex participants because, different from the others, they do not need to have any connection to the area of the Operation. Generally, they are those who buy the CEPACs, government bonds issued by the administration and previously negotiated via auction to finance the CUO.

Interventions Types

The types of intervention to be performed by the CUO are set forth in the City Statute. Among other

measures, it can be envisaged the modification of index and installment characteristics, use and occupation of soil and subsoil, as well as changes to the rules relating to buildings and construction, considered the environmental impacts caused. A CUO may also include the regularization of construction, renovations or extensions executed in violation of current legislation.

The Statute also provides for incentives for Operations using technologies aimed at reducing environmental impacts, and for which prove the use, in the constructions and use of urban buildings, technologies that reduce environmental impacts and save natural resources, specifying the modalities of design and works to be contemplated. When creating the project that will be formalized and approved by specific municipal law, the public sector must, according to the provisions of the Master Plan, conduct preliminary studies in order to verify the possibility of granting the benefits provided for in the Statute.

Among the changes of soil and subsoil use, it is the expansion of construction potential of the area⁴³, which can only be used, as a rule, with the purchase of CEPACs. With the possibility of legitimizing constructions, renovations and expansions, municipal governments can regulate constructions carried out in violation of the law and promote regularization of urban land⁴⁴. Beneficiaries, as a rule, should contribute with the counterparts to be required in the law. However, there is no obligation on joining the Operation. Owners must choose to accept or not the rights and obligations provided by the law that approved the CUO project.

43. The law creating the OUC allows the municipality to authorize the owners to not parcel plots which before were to be parceled, or provides opportunities to parcel lots that previously could not be parceled. As for the use and occupation of the soil and subsoil, the Operation may authorize the construction of houses in the are intended for the construction of commercial rooms or buildings on the site intended for the construction of houses, depending on the urban interests to be achieved.

44. CARVALHO FILHO, José dos Santos. Comentários ao Estatuto da Cidade. 5. ed., São Paulo: Atlas, 2013. p. 283.

42. CARVALHO FILHO, José dos Santos. Comentários ao Estatuto da Cidade. 5. ed., São Paulo: Atlas, 2013. p. 277.

Importantly, changes in the Statute sought to emphasize the increasing need to protect the environment and favor sustainable growth by stimulating the use of means and technologies that will reduce environmental impacts or conserve natural resources. In addition to direct benefits to the owners, the Consortial Urban Operations may impose other interventions such as expropriations; infrastructure projects (roads, railways, ports, airports, stations and rail-road terminals, aqueducts, sewage treatment systems); socially oriented works (schools, kindergartens, hospitals, parks, community centers) and environmental works not only aimed at reducing environmental impact, but also at guaranteeing a balanced environment to the population.

Required and Optional Elements of the Project

Within a CUO project, which will be formalized by municipal law, there are some mandatory elements, and is also an option of the municipal administration to include other elements that it considers relevant. The mandatory requirements are cited in the City Statute and non-compliance may result in the invalidation of the law approving the Operation. The mandatory elements are:

- **Definition of the area to be affected:** it is essential that the project determines on which region the Operation will be implemented, with proper demarcation. This obligation is reflected in the fact that the benefits granted are limited to the established area of the CUO.
- **Basic program of occupation of the area:** this requirement is vital for the Operation because it will contain all project basis, meaning the intentions of the municipal administration for the region⁴⁵.

45. ALFONSIN, Betânia de Moraes. Operações Urbanas Consorciadas como instrumentos de captação de mais valias urbanas: um imperativo da nova ordem jurídico-urbanística brasileira. Revista Direito e Democracia, Canoas/RS, Ed. Ulbra, v.6, n.2, p. 17-34, 2º sem. 2005.

- **Economic and social care program for the directly affected population:** the Consortial Urban Operation, a public policy, has as one of its objectives the achievement of social improvements. So, interventions to be undertaken for the achievement of this goal must be present in the project. Examples of social improvements are the construction of schools, kindergartens, parks, hospitals, community restaurants, among others that may contribute to the quality of life of local people.
- **Purposes of the operation:** meet the administrative principles of motivation and advertising because it will be up to the government the duty of explaining its goals and determining its intentions.
- **Previous study of neighborhood impact (EIV as in Portuguese):** the concept of cooperation must be present in the project in order to facilitate the planning and cause the least possible inconvenience to the local population and to who lives in the surroundings of the affected area.
- **Counterparts to be demanded from the owners, permanent users and private investors due to the use of benefits:** as already mentioned, the Operation will bring, especially to the owners, a number of benefits. Therefore, it is fair that these will contribute to its realization. In this part of the project it is described how the raising of funds will be performed, based on feasibility studies, what are the counterparts of the private sector, and, in case of using CEPACs, the detailed description of how they will be issued and marketed.
- **Control method:** due to the partnership premise for the performing of the operation, the control must also be made by both the public sector and representatives of civil society.

- **Nature of the incentives to be granted to owners, permanent users and private investors:** it aims to extend the benefits to the private participant that prioritize the use of means and technologies that reduce the environmental impact or save natural resources. Although the Statute does not determine, it is implied the need to produce a Preliminary Study of Environmental Impact Assessment (EIA/RIMA as in Portuguese).

In addition to mandatory elements, there are also optional elements, which may be included in the project, either for convenience of local government or requirement of the private sector, as long as it does not impair the public interest. With regard to the allocation of resources, this also represents mandatory requirement, which will be treated next when discussing the financing of the CUO.

Financing of CUOs

The CUO follows the partnership premise, representing a project coordinated by the municipality with financing from the private sector. Such financing is usually done through the sale of CEPACs. However, the municipal government can make use of other forms of consideration to fund the operation. The considerations may be diverse including pecuniary considerations and donations of lands that may even be outside the area hit by the CUO, if there is public interest⁴⁶. All considerations will be obligatorily placed in an account linked to the Consortial Urban Operation. Public servants may account for administrative misconduct if there is any deviation to the investment of the resources in another area.

It is important to highlight the difference between CEPACs and Onerous Grant on the Right to Build, in order to avoid a fairly frequent confusion. Both are means used by the municipality to raise funds because of urban constructions above the basic coefficient of utilization of land up to the maximum limit set by the master plan, to carry out urban improvements. However, the legal nature of the instruments is distinct.

The Onerous Grant on the Right to Build is also called “created soil”. It is an instrument to be used exclusively by beneficiaries, often the owners, who can construct buildings above the basic coefficient up to the maximum allowed by the master plan, providing however counterparts to the municipality for that use⁴⁷. Unlike CEPACs that aims to finance an CUO, the Onerous Grant on the Right to Build, besides serving as a means of compensation for municipal population density, also balances the real estate market. This occurs when charging the owner who has land in prime location defined by the master plan and therefore a differentiated maximum construction coefficient, counterparts for the use of this benefit.

The City Statute provides that the amount collected by the Onerous Grant on the Right to Build should be aimed at urban improvements to be carried out by the municipal government, such as land regularization, execution of housing programs and projects of social interest, land reserve, organizing and directing the urban expansion, implementation of urban and community equipment, creation of public spaces for leisure and green areas, creation of protected areas or protection of other areas of environmental interest, and protection of areas of historical, cultural and scenic interest.

46. ALFONSIN, Betânia de Moraes. Operações Urbanas Consorciadas como instrumentos de captação de mais valias urbanas: um imperativo da nova ordem jurídico-urbanística brasileira. Revista Direito e Democracia, Canoas/RS, Ed. Ulbra, v.6, n.2, p. 17-34, 2º sem. 2005.

47. As an example, an urban land with 500 m² area, which its basic coefficient is 1 (one), the owner can only build the equivalent of the total area of its land, ie 500m². However, if there is interest in building up this basic coefficient, to the maximum extent provided by the Master Plan, the owner must pay counterparts to the municipality.

The CEPAC, in turn, are securities linked to Consortial Urban Operations, which is why they can be purchased by any interested party and freely used. These securities are issued by the municipal government, previously, and launched on the market through a financial agent in order to generate revenue which will be used in carrying out the works and planned improvements of the CUO. The government can also use these bonds to directly pay for the work to be performed.

The law that will set up the Operation can change the use of the soil and subsoil, including its constructive potential. In this sense, and based on previous studies, the municipality can assess the constructive potential of the region and issue bonds that grant the possibility to the owners of building up above the limit previously defined. The new maximum limit should also be established by law, in line with the master plan. There is the possibility of a triangulation, when the interested owner buy the bond launched in the financial market, and, while starting the construction, deliver the bond to the municipality as payment to the additional construction potential⁴⁸. The Statute defines that CEPACs will be freely traded, but convertible into right to build solely on the area of the Operation.

The securities issued can be traded directly in the market, being their purchase not restricted to owners who have land at the area of the CUO. So, anyone can be an investor in the operation, with the risk of attracting speculative capital. The price of the bond will be measured in accordance with the value of the CUO, taking into account also other considerations to be taken, in addition to external factors, which relate to the economic income to be generated.

The Life Cycle of a CUO is explained in the table 6:

48. CARVALHO FILHO, José dos Santos. Comentário s ao Estatuto da Cidade. 5. ed., São Paulo: Atlas, 2013. p. 289.

Risks in Consortial Urban Operations

The CUO is a valuable tool for improving the lives of population through development of the urban and social infrastructure. It works like a “wild card”⁴⁹, since the law that enables the Operation establishes a series of urban changes that may be the solution of various problems. However, it can also be detrimental to or serve to meet interests different from those devised by the City Statute.

Like any powerful tool of transformation, its risk will always be linked to the deviation of purpose or mismanagement by the public administration. The diversion of purpose occurs when political agents⁵⁰, in breach of their legal duty, use public policies for purposes other than those determined by law or described in administrative and constitutional principles. Performing an operation in order to only fundraise or only seek to serve interests of segments of the private sector, such as the real estate market, are configured as deviations from the CUO purpose⁵¹.

It is important to highlight some risks inherent to the possibilities of intervention provided for in the City Statute. The possibility that the Urban Operation regularizes buildings, renovations or expansions in violation of current legislation may be an “invitation to illegality”, as many mayors may see the CUO as a “solution” to

49. ALFONSIN, Betânia de Moraes. Operações Urbanas Consorciadas como instrumentos de captação de mais valias urbanas: um imperativo da nova ordem jurídico-urbanística brasileira. Revista Direito e Democracia, Canoas/RS, Ed. Ulbra, v.6, n.2, p. 17-34, 2º sem. 2005.

50. “Political agents are the holders of structural positions in the political organization of the country, or occupants of those in the constitutional framework of the State, the fundamental structure of power. [...] Political agents are the President, Governors, Mayors and Vices, the immediate assistants of the Chief Executives [...] and the Senators, Federal and State Deputies and Councilors.” (BANDEIRA DE MELO, Celso Antônio. Curso de Direito Administrativo. 31. ed. São Paulo: Malheiros, 2014. p. 251-252)

51. OLBERTZ, Kalin. Operação Urbana Consorciada. 2011. 141 f. Dissertação (Mestrado) – Faculdade de Direito de São Paulo. 2011.

Table 6: Life Cycle of a CUO

| Life Cycle of a Consortial Urban Operation | |
|---|--|
| Social demand for urban intervention | <ul style="list-style-type: none"> • Proposal of CUO projects to the government, through: <ul style="list-style-type: none"> • Collegiate urban policy bodies • Debates, public hearings and consultations • Conferences about subjects of urban interest • Popular initiative of a Bill and of urban development programs |
| Definition of guidelines, parameters, mechanisms and anticipation of the areas capable of a CUO | Master Plan (Municipal law) – Inclusion of proposals |
| Studies for presentation of specific law for a CUO | <p>The Bill to a CUO, must contain:</p> <ul style="list-style-type: none"> • CUO area - definition and delimitation • Occupation of the area - basic program • Affected population - economic and social assistance program • Purpose of CUO - motivation • Neighborhood impact - studies • Required counterparts and CEPACs • construction potential study • study of the real estate market • definition of the values and quantities of securities (CEPAC) • Control of the operation • decision on the form of supervision of the CUO • definition of representatives of civil society • Incentives related to environmental impact - definition of forms to be accepted and incentives to be granted |
| Approval of municipal law of the CUO | <p>Specific municipal law of the CUO</p> <ul style="list-style-type: none"> • Delimits the area of the CUO • Presentation of feasibility studies • Defines the benefits to the population • Establishes forms of financing |
| Planning of CUO implementation by the government | <ul style="list-style-type: none"> • Preparation of projects for compliance with the occupation program • Budget forecast with sales of CEPACs and counterparts • Procurement of the works for compliance with the occupation program • CEPACs emission and collection of pecuniary counterparts |
| Management of the CUO implementation | <p>CUO implementation</p> <ul style="list-style-type: none"> • Expropriation of the areas set out in the law • Paying with the resources from CEPACs (or pecuniary counterparts) • Using CEPACs to pay the expropriations • Contracting of works to comply with the occupation program • Paying with the resources from CEPACs (or pecuniary counterparts) • Using CEPACs to pay for works • Verification of compliance with counterparts required from beneficiaries |
| Monitoring of CUO | <ul style="list-style-type: none"> • Control of the operation • Oversight committee • Representatives of civil society |

Source: Own production

solve problems of land irregularities⁵². Furthermore, depending on their level of influence, construction industry representatives can irregularly build with the promise of regularization made by a political agent. The way the issue is presented in the Statute may lead the reader to understand that the law was created in order to regularize illegalities, being able to elect some who work on the margins of

legality to receive this benefit⁵³. Along the same lines is the issue of change of soil and subsoil levels and changes in the installment rates, which can serve as means to benefit people with greater influence over the government.

The interventions inserted in a CUO can still bring a great risk to the environment, since buildings and installment changes can lead to serious

52. SEGUIN, Elida. Estatuto da Cidade. 2 ed. São Paulo: Forense. 2005. p. 158.

53. CARVALHO FILHO, José dos Santos; FORTINI, Cristiana. Operações urbanas Consorciadas. Revista Interesse Público, Belo Horizonte, Ed. Fórum, v. 10, n. 50, p. 243-259, jul/ago. 2008.

environmental damages and permanently harm the ecosystem of the region affected by the Operation, which would entail losses of difficult or impossible repair. For this reason, the City Statute shows great concern with regard to environmental protection, and now provides greater benefits to whom mitigate environmental damages, whether in saving resources or in the use of sustainable technologies in buildings and constructions.

A poorly designed planning by fault of the project leaders, or even by incompetence or ignorance of the law, represents one of the main risk factors for efficient management. As the CUO represents a series of urban interventions to be carried out over a long term, poor management may hinder, or even prevent, the continuation of the Operation, which would bring huge losses for both the public sector and the private sector, and would have consequences, sometimes severe, in the local society. Importantly, mismanagement can cause liability for administrative misconduct to public officials responsible for the CUO that may commit acts that violate the principles of administration or bring harm.

Moreover, one of the main forms of CUO financing is through the issuance of CEPACs. The City Statute defines that these securities are of free circulation and thus can be negotiated with anyone, even having no direct interest in the Operation. Such a situation can bring speculative capital⁵⁴ to the CUO, in order to generate profits without developing the region, which would break the idea of partnership. On the other hand, CEPACs represent the pecuniary means of financing the projects of municipal government, and because of the similarity with the bonds of public and agrarian debt, may end up discredited by the market, which would thus cause major devaluation to the securities⁵⁵.

54 CARVALHO FILHO, José dos Santos. Comentários ao Estatuto da Cidade. 5. ed., São Paulo: Atlas, 2013. p. 290.

55. SANTOS, Márcia Walquiria Batista. Dos instrumentos da política urbana: das operações urbanas consorciadas, in: ALMEIDA; MEDAUAR (coords.). Estatuto da Cidade, Lei 10.257, de 10.07.2001: comentários. 2ª ed. São Paulo: Revista dos Tribunais, 2004. p. 150.

The greatest risk, however, is the possibility of the Urban Operation end up expelling the population of low-income⁵⁶, the one resident in the area affected by the interventions. Although this is not the goal, if the social improvements are not performed in the expected way, all improvement of urban infrastructure, development of the local and the capital influence can naturally lead to this result. Such a situation would go against the guidelines of urban policy, provided for in the Statute⁵⁷ which defines that the cooperation between the government and the private sector should primarily serve to meet the social interest.

A study by Fix⁵⁸ reports that within the Consortial Urban Operations held in São Paulo, such as Operation *Água Espraiada* and Operation *Faria Lima*, the benefits ended up being mostly for entrepreneurs, leading to an increase in socioeconomic inequalities in the region of CUOs because of the high valuation of the area. The real estate industry and the population with the highest income, with greater influence over government, end up pushing for more urban investments in the area.

Expected Outcomes of Consortial Urban Operations

Examples of Consortial Urban Operations ongoing in Brazil, as in the cities of Curitiba, Niterói and São Paulo, show the positive results that this public management tool can bring and make it stand out

56. CARVALHO FILHO, José dos Santos; FORTINI, Cristiana. Operações urbanas Consorciadas. Revista Interesse Público, Belo Horizonte, Ed. Fórum, v. 10, n. 50, p. 243-259, jul/ago. 2008.

57. “Art. 2. Urban policy is aimed at ordaining the full development of the social functions of the city and of urban property, subject to the following general guidelines: [...] III - cooperation between governments, the private sector and other sectors of society in the urbanization, in compliance with social interest”. Lei 10.257/2001 – Estatuto da Cidade.

58. FIX, Mariana. A “FÓRMULA MÁGICA” DA PARCERIA PÚBLICO PRIVADA: OPERAÇÕES URBANAS EM SÃO PAULO. Cadernos de Urbanismo, Rio de Janeiro. N. 3. 2000. Disponível em: <http://www.usp.br/fau/deprojeto/labhab/biblioteca/textos/fix_formulamagicaparceria.pdf>. Acesso em: 20 Nov. 2014.

as an alternative to face the challenge of investing in infrastructure in the country.

With regard to the issue of urban mobility, a factor that directly influences the quality of life of citizens, relevant interventions in transportation infrastructure in the aforementioned CUOs are: implementation and reform of the municipal road system; construction of intermodal terminals, implementation and reform of municipal rail system (metro and tramway); implementation of bicycle paths; construction or revitalization of borders and ports; as well as construction or expansion of parking areas.

As for sanitation infrastructure, which is of greater responsibility of the municipality, interventions being financed through CUOs include: improved garbage collection; recovery, expansion and deployment of the restraint and rainwater drainage systems; recovery, expansion and implementation of new networks for the collection and disposal of sewage; and recovery, expansion and implementation of new treatment and water supply networks.

These CUOs will be primarily financed through the sale of CEPACs, and in Urban Operation *Requalificação do Centro de Niterói* there is also a partnership with the Federal Government planned through an agreement for the construction of social housings and also a PPP, in the administrative form, for the maintenance of the area of the operation during the construction period. The examples also show a series of investments in social infrastructure, such as housing, leisure, culture, trade, environment, tourism and security.

Foreign Examples of Urban Interventions

Successful international examples can serve as a reference and comparison to national cases. In France, the *Zone d'Aménagement Concerté* (ZAC) are considered as inspiration for the Consortial

Urban Operations in Brazil⁵⁹. Established in 1967, the model aims to elect areas of the city in order to urbanize it through a Public-Private Alliance.

In London in order to recover the docks, site of great commercial importance to that city, a government agency was created in the 1980s, the London Docklands Development Corporation (LDDC), which was responsible for coordinating urban interventions on that area. As a result, the location, once considered seedy, has become the "second financial center of the city"⁶⁰.

In Colombia lies perhaps one of the best examples for comparison with the Brazilian reality. In that country, the urban interventions, mainly structural, as the real improvement in the infrastructure of Bogota, brought extremely positive results. This fact enables us to state that the improvement of urban infrastructure is an effective weapon to improve the quality of life of population and consequent economic growth.

In Bogotá, for the improvement of Usme region, which was experiencing an uncontrolled situation of urbanization due to irregular settlements made by large landowners, the strategy of acquiring private land by the government for pre-set prices was adopted. From there, the Urban Operation *Nuevo Usme* was created, through which urban improvements that generated great appreciation in the area were carried out, allowing the payment of the Operation through the resale of part of these lots. However, in order to ensure access of low-income population to the land, a reseller program was created differentiating the price of the land due to its purpose (commercial or residential).⁶¹

59. OLBERTZ, Kalin. Operação Urbana Consorciada. 2011. 141 f. Dissertação (Mestrado) – Faculdade de Direito de São Paulo. 2011.

60. VILARINO, Maria do Carmo. Operação Urbana: a inadequação do instrumento para a promoção de áreas em declínio. 2006. Tese (Doutorado) – Faculdade de Arquitetura e Urbanismo da Universidade de São Paulo. 2006.

61. SMOLKA, Martim. Recuperação de Mais-Valias Fundiárias na América Latina; Políticas e Instrumentos para o Desenvolvimento Urbano. Informe sobre Políticas Fundiárias. Lincoln Institute Of Land Policy. 2014. P. 47-49

Both Bogota and Medellin reduced dramatically their levels of violence, particularly with regard to homicides in the 1990s⁶², after conducting urban interventions. Field research conducted in both cities⁶³ shows that with the urban interventions such as urban mobility improvements that included encouraging public transport, traffic routes opening, encouraging the use of bicycles, among others, added to an improvement of public services, it is possible to achieve extremely positive results⁶⁴. Another point to highlight in the Colombian experience is the private sector. In the case of Bogota, after completion of restoration work of parks, the local government encouraged, through tax benefits, the private initiative to take over their administration⁶⁵.

Still, in this sense, it is important to cite the Argentine example, held in Buenos Aires, which created the Puerto Madero district. The local government, in order to develop an abandoned port area, which is close to the downtown area, held a redevelopment project, thus generating many jobs. The strategy adopted was to create a corporation to develop the project, with the participation of local and national government. Following the idea of a Public-Private Alliance, while the government privatized public land, the private sector made the necessary investments. Thus, there have been a series of public works with the funds raised through the sale of land to private enterprise. The interventions transformed an inhospitable region in a reference quarter, which is today one of the greatest sights of the city⁶⁶.

It is evident that the Consortial Urban Operation is a valuable tool for improving people’s living conditions since they enable relevant urban changes, such as infrastructure projects, using funds from the private sector and enabling the municipal government to allocate tax revenues to other priority sectors.

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Alcaldía Medellín. Disponível em: <<http://medellincomovamos.org/seguridad-y-concidencia>>. Acesso em 20Nov.2014.

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CARMONA, Paulo Afonso Cavichioli. Violência x Cidade. 1. ed., São Paulo: Marcial Pons; Brasília, DF: Fundação Escola Superior do Ministério Público do Distrito Federal e Territórios, 2014.

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Op. cit. Pág. 273-291.

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Op. cit. Pág. 260.

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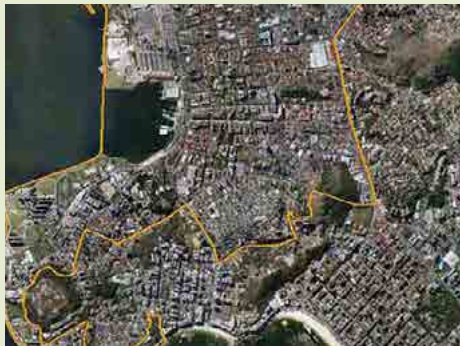
SMOLKA, Martim. Recuperação de Mais-Valias Fundiárias na América Latina; Políticas e Instrumentos para o Desenvolvimento Urbano. Informe sobre Políticas Fundiárias. Lincoln InstituteOf Land Policy. 2014. P. 46-47

Examples of CUO Projects in Brazil

Requalification of Niterói Center

In the Urban Operation Requalification of Niterói Center⁶⁷, Municipal Law No. 3,069/2013 determined that the redesign of public spaces should be accompanied by the renewal of all existing infrastructure, including sewerage networks, public lighting, water and gas, and electrical and telecommunication cables, which will be underground in throughout the region. Moreover, new paving and street and sidewalks signs, as well as the replacement of street furniture, were also included.

The area to be affected is 3.2 million square meters in the center of the neighborhoods, Boa Viagem, Morro do Estado, São Lourenço and Ponta de Areia, all in the city of Niterói, Rio de Janeiro, as shown in the image below:



Picture 1: Area to be reached by the Urban Operation

Source: Prefeitura de Niterói

To achieve the above objectives, the following urban interventions will be carried out:

Transport and Urban Mobility:

- Reform of 230,000 m² of sidewalks.
- Resurfacing of 365,000 m² of streets.
- Construction of 16 km of bicycle paths.
- Street furniture (bins, panels, benches, bike racks, etc.).
- Construction of an intermodal terminal.

Sustainability:

- Planting of 3000 trees.
- Use of LED lamps in street lighting to save energy.
- Improved garbage collection with the use of containers for the collection of household waste.

67. Available at <http://centro.niteroi.rj.gov.br/oprojeto/ocentroquequeremos.php>, Accessed in 25/11/2014.

Housing and Social:

- Urbanization of Favelas (Morro do Estado, Arroz/Chácara, Sabão, Lara Vilela e Palácio) and implementation of land regularization.
- Construction of five shelter houses for homeless families.
- Creation of a Popular Market.

Leisure, Trade, Culture and Tourism:

- Creation of a gastronomic center.
- Improvements on the seafront with the implementation of sectors for trade and public spaces.
- Construction and revitalization of squares.
- Restoration of historic sites.

Funding:

The CUO will be financed through CEPAC and a company of mixed economy was created, the NitUrb, with the specific purpose of carrying out the sale of the bonds, the application of resources and the monitoring of interventions. It will be up to the Court of Auditors of Rio de Janeiro State to perform supervision of the company.

Deadlines and expected results:

The term shall be 15 years for the completion of all interventions. During the period of realization of the works, a PPP in the administrative mode will be structured to maintain the area.

The expectation is that the planned new residences and shops attract up to 40 thousand new residents and new traders in the next 20 years. This represents a new dynamic in the economy of the whole city.

According to the schedule available on the website of the Operation, there are still some pending steps to the beginning of operations.

In this operation, the municipality, in addition to the partnership with the private sector with regard to financing through the CEPAC and the structuring of a PPP, will also make a partner with Federal Government, which will invest R\$ 370 million through the housing program Viver Melhor, of which R\$ 350 million will be contributed by the Federal Government and the municipality will contribute with R\$ 20 million not derived from CEPACs.

Operation *Linha Verde*

The Operation *Linha Verde*⁶⁸ provided for in the Municipal law nº 13,909/2011, has as objective to establish guidelines for the urban area of influence of the former BR-116 in its urban stretch in Curitiba, between the region of the North of the municipality Atuba, and the Pinheirinho region, South of the city, in order to economically develop the place.

To achieve the objective of promoting the orderly occupation of the region, according to urban planning guidelines, aiming at the valuation of living and of public use spaces, the following interventions will be held:

Transport and urban mobility

- Expropriations to carry out the work necessary for the implementation of the CUO.
- Completion of the *Linha Verde* in all its extension, with the necessary complementary roads, implementation of transpositions along the *Linha Verde*, deployment of connections to the side streets of access to *Linha Verde*, implementation of a road complex, with bridges, connecting the *Linha Verde* with marginal routes of Rio Belém and deployment of local routes along the *Linha Verde*.
- Redevelopment of existing routes, deployment of new routes and bike path, considering paving, drainage, road signs, street lighting, landscaping, plantings and building of coasting.
- Deployment of street furniture, such as shelters for bus stops, bins, informational kiosks, informational panels, internet booths, squares and bike racks.

Sustainability:

- Implementation of green areas and public spaces that are compatible with the dynamics of development of the region, designed to allow the creation of recreational areas and safe circulation for pedestrians.
- Creation of differentiated environmental conditions in public spaces by planting and deployment of street furniture and visual communication.
- Recovery, expansion and deployment of new networks of collection and final disposal of sanitary sewage and storm water drainage.
- Creation on the perimeter of the Operation urban and environmental qualities compatible with the proposed high density.
- Provision in the new buildings of the deployment of mechanisms aimed at the retention of rainwater.
- Ensuring the soil permeability upon constructive incentives.

68. Available at: <<http://www.curitiba.pr.gov.br/conteudo/cepac-intervencoes-urbanas/577>>. Accessed in: 25Nov.2014.

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Social housing:

- Construction of buildings intended for public facilities to the population and local government.
- Development of a program that guarantees the assistance to the population living in area of irregular occupation or in a situation of vulnerability, with relocation of families, upgrades and redevelopment of degraded areas.
- Creation of stimuli for the deployment of diverse uses, with urbanistic parameters compatible with the trends and potential of lots included in the perimeter of the Operation.
- Creation of conditions for owners, residents and investors to participate in the urban transformation objectified by CUO.
- Implementation of road improvements in the intervention Program, in particular the completion of the Project Linha Verde, preserving the quality of life of its surroundings through the expansion of green and recreational areas, with landscape treatment.

Financing:

The operation will be financed through the CEPAC, with pricing based on economic study carried out by the municipality. The CUO aims to develop economically the region and gives priority to basic infrastructure works, especially roads, in order to attract private capital. If it is completed within prospects, it should represent a viable source of mitigation of the problem of the region’s infrastructure.

Operation Faria Lima

The Operation Faria Lima⁶⁹, approved by Municipal law nº 11,732/1995, before the City Statute, has been adapted to its standard by Municipal Law nº 13,769/2004. As described by the Municipality of São Paulo, this operation has as its main goals to reorganize the private and collective traffic flows by deploying the extension of Avenue Faria Lima linking it to the avenues Pedroso de Moraes and Hélio Pelegrino until reaching Avenue República do Líbano, in addition to build a multimodal terminal with CPTM and Metro stations. Promoting the reorganization of the CUO Largo da Batata and urbanizing the favelas in its perimeter, or immediate surroundings, are also important objectives.

As the financial summary of the operation on 8/31/2014 demonstrates, presented in the table below, R\$ 2,005,613,916.58 were collected and R\$ 1,535,454,182.13 expended, leaving the amount of R\$ 470,159,734.45.

Table 7: Summary of transaction of Consortial Urban Operation Faria Lima until 8/31/2014

| Inputs | R\$ 2.005.613.916,58 |
|---------------------------------------|---------------------------|
| Onerous Grant | R\$ 465.321.920,86 |
| Auction of CEPAC | R\$ 1.047.908.464,18 |
| CEPAC - Private Placement | R\$ 140.971.609,42 |
| Other Inputs | R\$ 4.039.838,05 |
| Net Financial Income | R\$ 347.372.084,07 |
| Outputs | R\$ 1.535.454.182,13 |
| Works and Services | R\$ (892.179.015,11) |
| Social Interest Housing - Real Parque | R\$ (235.818.047,15) |
| Administration Fee | R\$ (87.060.272,15) |
| Other Expenses | R\$ (5.954.432,82) |
| Expropriation | R\$ (185.519.012,98) |
| Expropriation - SIH Real Parque | R\$ (8.423.401,92) |
| Public Transport - Metro | R\$ (120.500.000,00) |
| Final Balance | R\$ 470.159.734,45 |

| Summary of Financial Resources | | Summary - Social Interest Housing | |
|--------------------------------|---------------------------|-----------------------------------|---------------------------|
| Resources Available PMSP | R\$ 419.610.650,06 | Real Park Redevelopment | R\$ 218.037.686,29 |
| Linked resources - SIH | R\$ 46.126.138,80 | Expropriation at Real Parque | R\$ 8.423.401,92 |
| Linked resources - Metro | R\$ 4.422.947,79 | Social Rental | R\$ 4.698.500,00 |
| Total | R\$ 470.159.734,45 | Management | R\$ 13.081.860,86 |
| | | Balance of Linked Account | R\$ 46.126.136,60 |
| | | Total | R\$ 290.367.585,67 |

Source: SP-Urbanismo. http://www.prefeitura.sp.gov.br/cidade/secretarias/upload/desenvolvimento_urbano/sp_urbanismo/arquivos/ouf/ouc_faria_lima_resumo_financeiro_agosto_2014.pdf. Accessed in 25 Nov 2014.

69. Available at: http://www.prefeitura.sp.gov.br/cidade/secretarias/desenvolvimento_urbano/sp_urbanismo/operacoes_urbanas/faria_lima/index.php?p=19591 Accessed in: 25Nov.2014.

The Municipal law that establishes the Operation Faria Lima, defines which are the interventions to be carried out.

Transport and urban mobility:

- Carrying out expropriations to enable operation.
- Complementation and integration of existing road system in the region with the system of macro circulation of South Zone, in order to enable adequate distribution of traffic flows generated by the Ponte Bernardo Goldfarb, the tunnel under the Pinheiros River, by bus lanes, and the implementation of mass transit projects, drawn up by Metro and by *Companhia Paulista de Trens Metropolitanos* (CPTM).
- Creation of bicycle lanes.

Sustainability:

- Creation of environmental conditions for the new public spaces obtained through the implementation of afforestation, street furniture and visual communication.
- Creation of green areas and adoption of mechanisms that facilitate the absorption and flow of rainwater.

And Social housing:

- Opening of public spaces, compatible with the dynamics of development of the region, designed to allow the creation of recreational areas and of safe circulation for pedestrians and roads that allow mass transit prioritization.
- Land use of public or private properties compatible with the conformation of the new blocks created by the implementation of road and infrastructure improvements.
- Creation of conditions for expansion of multifamily housings offer in areas of environmental quality, in order to enable the greatest number of stakeholders.
- Stimulus to the union of lots of the same block and densification, without prejudice to the environmental quality, with the maximum coefficient of use of 4.0 (four).
- Support to the population that resides in areas of expropriation, keen to continue living in the region, by providing financing for the purchase of multifamily housing already built or to be built with resources from the Operation.
- Interconnection of blocks and buildings within a same block through the use of aerial and underground spaces including public places.
- Stimulating residential use in specific areas, with maximum occupancy rate of 70% (70%) of the area of the lot.
- Provision of Social Interest Housing improvements and redevelopment in places defined by

the competent bodies of the municipality, for the population residing in Favelas in the area of the Urban Operation and region of its surroundings.

Leisure, Commerce, culture and tourism:

- Expansion of parking areas for commercial and service uses.
- Encouraging the different uses in the areas contained in the perimeter of the Urban Operation, with occupation of the ground floor for commercial purposes up to a maximum of 70% (70%) of the area of the lot.

Financing:

The financing of the operation will be carried out basically by means of CEPACs, which were sold and allowed the collection of the amounts mentioned above.

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Chapter 5: Voluntary Partnerships with Civil Society Organizations in Brazil

Along with Public-Private Partnerships and Consortial Urban Operations, Voluntary Partnerships with Civil Society Organizations are also pointed out as mechanisms of alliance between the public and private sectors to promote the development, especially with regard to local development. From the last years of the 20th century, the economic, social, political and cultural transformations brought by intensified globalization aroused a new look at the concept of local development. This resignification brings accountability to new social actors. In this sense, State, private sector and civil society assume new roles in the construction of the sustainable development process.

Important transformation processes in public management in Brazil, with emphasis on the articulation between government, companies and civil society, have been observed in recent decades. After a transfer of resources and responsibilities of the Federal Government to subnational entities, especially after the Constitution of 1988, the focus of development of innovative public policies passed to the local level, with a strong process of civil society participation.

The local development concept started to gain

relevance in the debate about the models of development particularly after the recognition of the phenomenon of globalization. To the same extent of the expansion of globalization, a trend of affirmation of the local emerged, whether as a response to the exclusion, either as an attempt of integration non-subjected to the “global economy”. Local development results from the effort to identify, recognize and value the local assets, in addition to take and develop the potentialities, vocations, business opportunities and comparative and competitive advantages of each territory.

On this new perspective, it is important to understand that a model of public action based on a design centered solely and exclusively in the State no longer stands. The legal regime of Voluntary Partnerships between government and Civil Society Organizations, involving or not transfers of financial resources, is established by law No. 13019 of 31 July 2014, also known as the Regulatory Framework of Civil Society Organizations.

This law established the general standards for voluntary partnerships established by the Federal

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Government, states and municipalities, and their local authorities, foundations, public companies and mixed-capital societies providing public services and their subsidiaries, with Civil Society Organizations, in a mutual cooperation regimen, for the achievement of purposes of public interest. The Framework also set guidelines for the policy of promotion and collaboration with Civil Society Organizations and established the term of collaboration and the term of promotion.

For the purposes of the law, it is considered as a Civil Society Organization any non-profit legal entity of private law that does not distribute, among its partners or affiliates, directors, officers, employees or donors, any leftovers, operational gross or net surplus, dividends, bonuses, shares or portions of its assets, earned through the exercise of its activities, and that fully applies them in the achievement of its social object, immediately or through the creation of Endowment Fund or Reserve Fund.

The new Framework established three instruments that govern partnerships between Civil Society

and the public administration: The Term of Collaboration, the Term of Promotion and the Procedure of Expression of Social Interest.

The Terms of Collaboration and Promotion are instruments by which partnerships established by the public authorities with civil society organizations selected through public call are formalized for the achievement of public interest purposes without disadvantages to the definitions related to the management contract and the partnership term. The Term of Collaboration is used for collaborative partnerships aimed at meeting requirements proposed by the public administration, while the Term of Promotion is used when partnerships are geared for the purposes proposed by the civil society organizations. The Procedure of Expression of Social Interest is the instrument through which the Civil Society Organizations, social movements and citizens can submit proposals to the Government so that it considers carrying out a public call aiming at the establishment of an alliance.

Chapter 6: The IDB and the PPADs

The demand for development lending by Latin America and the Caribbean has increased in recent years. This demand was multiplied after the global financial crisis, having hit hardest the poorest and vulnerable. Brazil shows a very significant deficit on infrastructure and on the provision of associated services in almost all sectors, making this one of the main obstacles to economic growth and social development of the country.

The level of investment in infrastructure has been lower than that of other similar countries and, consequently, Brazil falls short of catching up in the infrastructure sector. The country needs to reverse this condition in the short term, but the fiscal and budget restrictions, which require the reduction of non-compulsory expenditures, and simultaneously the difficulty or even impossibility to resort to new sources such as increasing tax burden, prevent the public sector to recover, through the traditional public procurement means, at least in the next few years, the gap and existing deficit.

The need for financial resources intended to leverage long-term investments related to the reduction of poverty and inequality, to the response to climate change and to the promotion

of regional integration led to a re-evaluation of capital levels of the Inter-American Development Bank (IDB). In July 2010, the Board of Governors agreed to the terms to increase the Bank's common equity. The IDB member countries approved the resolution authorizing an increase of the ordinary capital in January 2012 and this entered into force in February of the same year.

This capital increase was complemented by a process of institutional reforms aimed at strengthening the Bank, making it more transparent and efficient, with better accountability. In order to meet the recommendations proposed in the document of the Ninth General Capital Increase (GCI-9), the IDB Country Office in Brazil has been working in several areas, seeking strategies in order to streamline processes and to meet the pressing needs.

The Country Strategy (2011-2014) reflects the priorities shared between the government, considering its multi-annual plan (PPA as in Portuguese), and the IDB Group (GCI-9), and strikes a balance between the definition of six major strategic objectives: (i) encouraging social and productive inclusion; (ii) improving

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the infrastructure conditions in the country; (iii) encouraging the development of sustainable cities; (iv) enhancing the institutional capacity of public entities; (v) enhancing the sustainable management of natural resources and the actions of mitigation and adaptation to climate change; and (vi) promoting the development through the private sector.

Given this context, the IDB Country Office in Brazil decided to invest in the issues associated to Public-Private Alliances for Development and has developed various initiatives related to these important instruments for the implementation of public policies applicable to the Brazilian case.

The involvement of the private sector and the PPAD model can leverage the financing of infrastructure works, and also speed up the implementation of the projects, and provide better Value for Money in their implementation, taking advantage of the greater flexibility, know-how, responsibility and risk management capacity of the private sector.

Among the numerous activities carried out, the elaboration of a work plan with Strategic Actions for the Promotion of PPADs was proposed, built with the support of representatives of the three levels of Government, the private sector and academia. The actions are aimed at internalizing the knowledge in the Bank and sharing it with strategic partners, in order to strengthen the Brazilian Government as economic and social growth inducer:

The development and investment in PPADs projects aim to achieve three main goals that are interrelated and complementary:

- Social development, improving public health and quality of life of the population, through combating poverty and the supply of basic needs to the population;
- Increasing national competitiveness, inducing

economic growth through the development of strategic sectors of the national economy;

- Improvement of the provision and efficiency of the services controlled by government agencies, by increasing their diversity, the quality of their performance and reducing their burden on public spending.
- Stand out among possible support means of the Bank in the short and medium term:
- Support to institutional capacity development through seminars, courses and trainings, as well as assistance on specific processes, emphasizing, in this opportunity, the actions conducted by the Committee on PPADs of the Bank’s Country Office in Brazil.
- Promotion of Sector Dialogue with strategic partners, opinion leaders in the three levels of government, control bodies, the private sector, and academia.
- Promotion of knowledge networks, such as the PPP Units Network, and of councils of subnational offices, technical groups, and sector events.
- Formulation of papers and preparatory studies related to Public-Private Alliances for Development, in relation to running lending operations.
- Support and financing to project with and without sovereign guarantee.

Strategic actions for Promotion of PPADs

Only through adequate training of the public and private sectors it is possible to generate the change of culture needed to boost PPAD projects in Brazil. The complexity of the preparation and management of projects requires the qualification of various sectors of society, as technicians and

managers from government, businessmen and members of the third sector. Given the high technical complexity and of negotiation of the PPAD projects, the availability of partners who possess the proper technical capacity is a critical success factor. Qualifying policies will allow these actors to be integrated from the selection of a PPAD project until its design, implementation and management.

In order to start providing the training, an effort should be undertaken to raise the awareness of government, corporate boards and the general public about the importance, the existing opportunities in the alliances with the private sector and the need for training of human resources for their development. Skilled technicians and public managers can act to ensure the public interest in the contracts, overcome information asymmetries and possess the expertise to follow the management of PPAD project.

The development of Strategic Actions proposed by IDB for strengthening the PPAD models in Brazil comes from a participatory process through which the various actors involved, the stakeholders, identify priority issues and suggest a way to introduce them to the target audience. The Bank's Country Office in Brazil created a Committee for PPAD themes that initiated some activities, in the form of events, and is responsible for the conduction of the training actions proposed. The Committee promotes interaction with the following strategic partners:

- Brazilian Association of Finance Secretariats of Capitals (ABRASF);
- Brazilian Court of Accounts Members Association (ATRICOM);
- Office of the Chief of Staff of the Presidency of the Republic;
- Federal Accounting Council (CFC);
- National Council of State Administrative Secretaries (CONSAD);

- National Council of State Planning Secretaries (CONSEPLAN);
- Brazilian School of Finance Administration (ESAF);
- Group of State Finance Managers of the National Council of Financial Policy (GEFIN/CONFAZ);
- Rui Barbosa Institute (IRB);
- National Institute of Historic and Artistic Heritage (IPHAN);
- Ministry of Cities (MCidades);
- Ministry of Foreign Affairs (MRE);
- International Affairs Secretariat - Ministry of Planning (SEAIN/MP);
- Ministry of Planning, Budget and Management (MPOG);
- Executive Secretariat of the Ministry of Finance (SE/MF);
- Finance Secretariat of Belo Horizonte (SMF); and
- PPP Unit of the Ministry of Planning, Budget and Management.

This Committee was responsible for launching a Cycle of Debates on Public-Private Alliances in the country that allowed the discussion of proposals for trainings during meetings held on these occasions. The first event, titled: "PPADs: an instrument of transformation of cities", was promoted by the Bank on 19 and 20 February 2014 in the city of Belo Horizonte, with the goal of presenting the various experiences and reflections of stakeholders about Public-Private Alliances. This seminar was important to generate discussions on the progress of these projects.

On its first day, the event was attended by a significant audience of several states and municipalities and lectures and discussions about

experiences in Public-Private Alliances were held. On the second day of the event, the Bank held a coordination meeting with experts and strategic partners of the following institutions:

- Brazilian Association of Finance Secretariats of Capitals (ABRASF);
- Brazilian Court of Accounts Members Association (ATRICOM);
- Federal Accounting Council (CFC);
- Brazilian School of Finance Administration (ESAF);
- Group of State Finance Managers (GEFIN);
- Rui Barbosa Institute (IRB);
- National Institute of Historic and Artistic Heritage (IPHAN);
- Ministry of Cities (MCidades);
- Ministry of Foreign Affairs (MRE);
- Executive Secretariat of the Ministry of Finance (SE/MF);
- Ministry of Planning, Budget and Management (MPOG);
- Brazilian Guarantees and Fund Managements Agency (ABGF);
- Court of Accounts of the State of Minas Gerais (TCE/MG);
- Attorney General’s Office of the Municipality of Belo Horizonte (PGM);
- Government of the Municipality of Fortaleza;
- Government of the Municipality of Manaus; and
- Municipal Finance Secretariat of Porto Alegre.

The 2nd event of the Cycle of Debates, held on 24 and 25 April 2014 in São Paulo was titled “Transformation: skills for productivity”. On this occasion, an initial proposal for the structuring of courses was presented. The following partners were present at the event:

- Federal Accounting Council (CFC);
- Ministry of Planning, Budget and Management (MPOG);
- Brazilian Association of Finance Secretariats of Capitals (ABRASF);
- Group of State Finance Managers (GEFIN);
- National Institute of Historic and Artistic Heritage (IPHAN);
- Ministry of Cities (MCidades);
- Rui Barbosa Institute;
- Brazilian School of Finance Administration (ESAF);
- Development Agency of Rio Grande do Sul;
- Comptroller General of Porto Alegre.

Some actors who participated in the previous meeting, could not participate in the second, but even so, the meeting was extremely important to the refinement of the proposal.

Methodology for Formulation of the Strategic Actions

The methodology adopted for the development of training proposals identifies the theme to be dealt with, in this case, the Public-Private Alliances; proposes the objective to be achieved, which in this instance is the dissemination of these alliances; draws up a diagnosis of the situation; and defines a work plan.

The figure below presents the methodology for the formulation of the Strategic Actions to the Promotion of Public-Private Alliances.

Theme

The theme set is Public-Private Alliances for Development that, as already pointed out, covers a broader concept than Public-Private Partnerships governed by law 11079 and involves a wider

mutual interest of public and private sectors.

Objective

The main objective is to disseminate the knowledge regarding Public-Private Alliances in order to create a culture of training to strengthen the process of implementation of these projects. In this way, some bottlenecks in the public sector in relation to the financing of public services in general could be overcome.

The establishment of an agenda for discussion of PPADs also aims to:

- contribute to the establishment of the PPAD policy and financing of public services in general;
- improve the procedures of design and selection of projects;
- contribute to the evaluation and implementation of PPAD projects and of their contracts;
- build alternative models of PPADs, into a broader concept of partnerships.

Stakeholders

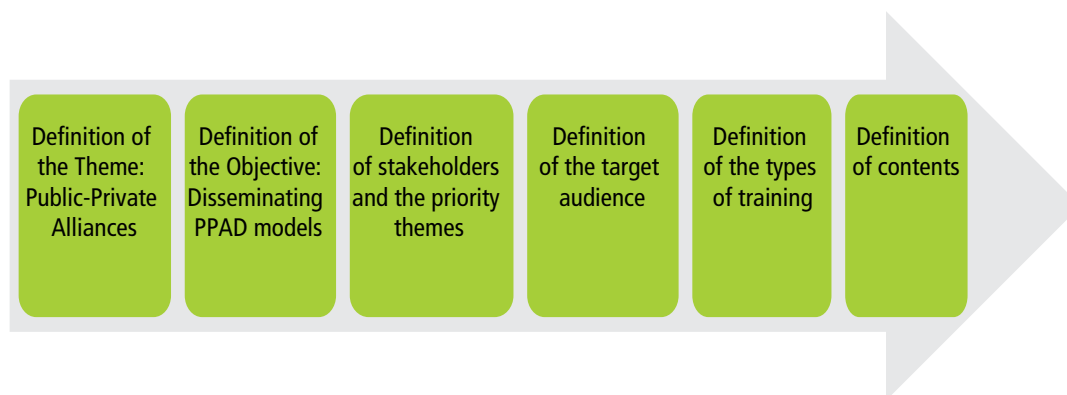
The term stakeholder refers to all individuals and organizations that affect and/or are affected by

the policies, decisions and other actions in the system. The stakeholders may be individuals, communities, social groups or institutions of any size, classes or social levels. Thus, the term includes those who depend on the system for survival, policy makers (as planners and administrators of government) and other institutions and social groups that benefit from the system. Once identified the different stakeholders, it is necessary to examine their different interests. The following figure shows the mapping of the stakeholders by interest groups. This mapping is intended to ensure that the dissemination of knowledge incorporates various sectors of society.

Ten groups of interest were identified so that PPAD projects can be successfully implemented:

- representatives of public institutions at the federal, state and municipal levels;
- the private sector represented by professional organizations, consulting firms and contractors;
- the public and private financing agencies, international organizations and national pension funds;
- Brazilian and foreign researchers;
- several public services providers;

Figure 5: Methodological Structure for the Elaboration of an Agenda for PPADs



Source: Own production

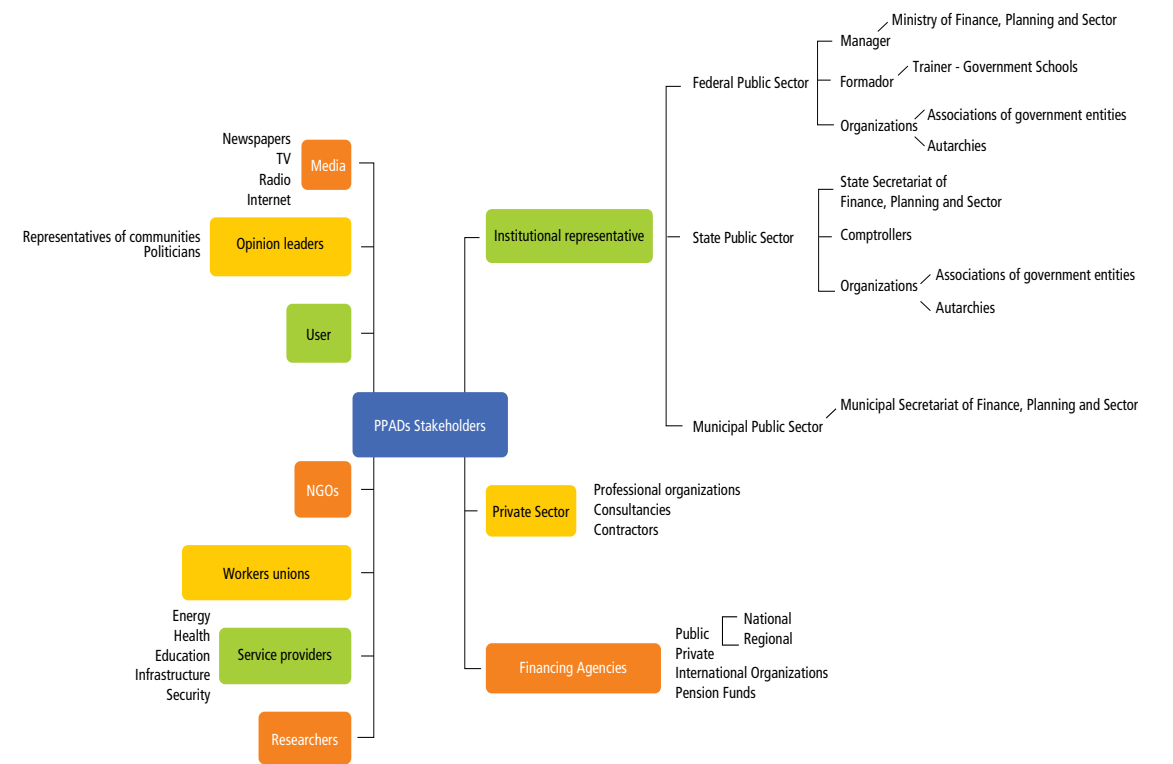
- the unions of workers;
- the different NGOs;
- users of the various public services;
- the opinion leaders as politicians and representatives of communities; and
- media channels, such as newspapers, television, radio and the internet.

Priority Themes

The priority issues to be worked out regarding the training necessary for the development of Public-Private Alliances were established at the first meeting of the Cycle of Debates. Through a form filled by members of the Working Group, they highlighted the main areas of interest and the pilot experiences that can contribute to the strengthening of PPADs in Brazil. The table below presents the issues identified as most important by the speakers at the event.

Through the lectures held during the Seminars of the Cycle of Debates, some challenges have been identified, among which are:

- understanding the scope and the strategic importance of PPADs;
- selecting in a strategic and optimized way the projects for conducting case studies;
- institutionalizing the policy and decision making of PPAD: the role of the PPAD Unit;
- encouraging the exploration of opportunities in various sectors and at various levels of government;
- promoting capacity-building at different levels of knowledge;
- centralizing the dissemination of information and experiences, through the establishment of a Knowledge Center;
- identifying the limits of the application of PPP/ Concessions; and



Source: Own production

- prospecting contractual and institutional innovations.

Participants in the Cycle of Debates still pointed challenges through a questionnaire, which made it possible to create the following order of priorities, listed according to their importance:

- risk management of projects;
- evaluation of the economic, social and environmental impacts of projects;
- PPAD policies;
- strategic planning of the sectors;
- financial analysis of projects;
- analysis and fiscal management of the projects;
- sector public policies;
- financing of contracts and the financial market;
- management of contracts and conflicts;
- regulatory framework and design of contracts;
- contracts and legal bases of the PPAD policy;

- institutionalization and the selection procedure;
- bidding process;
- prospection of markets;
- technical peculiarities of the projects and related sectors; and
- marketing of PPAD projects.

Target Audience

With respect to the training actions, some agents external and internal to the IDB have been identified as potential target audience. These agents, in turn, were broken down into two groups:

- (i). decision makers, for example, Governors, Executive Secretaries, Secretaries and Undersecretaries, with or without experience in the implementation of PPADs;
- (ii). technicians responsible for the development of the project, with or without experience in the implementation of PPADs.

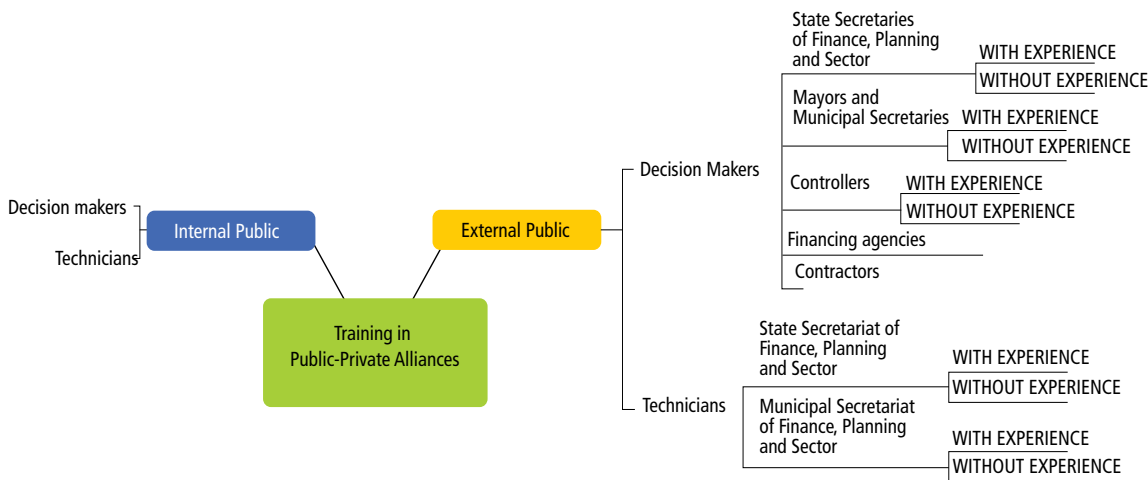
The figure below shows the classification of the target audience:

Table 8: Relevant Topics Identified in the Cycle of Debates

| | | | |
|--|---|---|--|
| Sector public policies | Strategic planning of sectors | PPAD policy | Institutionalization and selection procedure |
| Technical specifications of the projects | Prospection of markets | Financial analysis of projects | Assessment of economic, social and environmental impacts of projects |
| Risk management of the project | Analysis and fiscal management of the project | Financing process of contracts and the financial market | Legal bases of contracts and the PPAD policy |
| Regulatory framework and design of contracts | Marketing of PPAD projects | Bidding process | Management of contracts and conflicts |

Source: Own Production

Figure 7: Classification of target audience



Source: Own production

Types of Training

The following table shows the different types of events that can be developed so that the established priority issues can be worked.

Table 9: Types of Events for Dissemination of Knowledge

Source: Own Production

During the second event of the Cycle of Debates, the strategic partners showed various concerns and suggestions related to the trainings, among which stand out:

- the lack of time of the decision makers (as Secretaries) for performing, for example, a course of 8 hours;
- development of lectures, on different days, to share knowledge;
- provide distance learning courses for technicians of various cities in the country;
- development of case studies, with the preparation of a manual that shows the step by step of the development of a project, so that it can be used as a reference by the technicians;

Seminar

Oral presentation for participants who have some prior knowledge of the subject to be debated.

Round table

Meeting prepared and conducted by a coordinator who can be named president. The coordinator acts as a moderating element and guides the discussion so that it always keeps around the main theme.

Symposium

Event that derives from the round table and has the participation of renowned experts. Each one is responsible for the presentation of different or special aspects of certain issues or problems.

Panel

Meeting where exhibitors discuss among themselves the issue at hand and it is up to the public the role of spectator, without the right to ask questions to the table. It is a type of meeting restricted to a small number of specialists. In addition to a chairman, the panel may present a coordinator and a moderator.

Journey

Meeting of certain professional groups, held periodically, in order to discuss one or more subjects not commonly discussed in congress.

Forum

Meeting, less technical, whose goal is to achieve the effective participation of a significant number of persons that must be motivated. It has a coordinator who raises an issue of general interest, in search of community participation.

Conferences

Meeting, well known, which has an auditorium and exhibitors. It is aimed at a specific audience that demonstrates familiarity with the subject matter. It is common to have the figure of the moderator.

Lecture series

Meeting derived from the conference, with the difference that it can be linked to a series of lectures given by professors and experts, on a same subject to be addressed.

Miniconferences

Conference that emphasizes the most relevant and recent topics of the theme to be focused on. It has the speaker to expose the theme and the plenary to ask questions.

Others

Colloquium - Closed meeting with defined theme.
Social events - Cocktails, parties, openings.
Arts events - Festivals, artistic promotions, exhibitions, shows, concerts.
Political events - Assemblies meetings, conventions.
Educational events - Courses, competition.

- development of modern didactic teachings so that the courses can be more productive;
- insert, in training, more clearly, accounting contents, as well as performance assessment;
- creation of a responsibility matrix to suggest what technicians of each sector should compulsorily participate in the course;
- analyze the experience of PPADs in Belo Horizonte;
- create a clipping of news related to PPAD for submission to interested parties; and,
- publish in the Knowledge Center, the various national and international experiences in a didactic and critical way.

Content Definition

Regarding the priorities of training for the qualification of the public internal and external to the IDB, it is possible to highlight: optimization

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in the allocation of risks; creation of confidence between government and investors; optimization of the results of the alliance in terms of quality of services; economic gain to the government; and efficiency of the bidding and contracting procedures. In general, the international literature sets the following priorities for capacity building:

- analysis of the viability of the partnership as institutional option (VFM and PSC);
- structuring of partnerships and bidding process;
- financial and risk analysis;
- PPADs and the public finance administration (fiscal responsibility); and
- legal aspects and adaptations of the legislation.

The priority list is dynamic because it depends on the initial situation of training, specific characteristics of the projects, PPAD policy and problems throughout the process of implementation of the projects. In this way, new content should continuously be placed on the agenda, through the application of priority pools.

Training actions for PPADs

The human resources training program for the PPADs should contemplate the realization of theoretical courses, practical trainings, seminars, conferences and technical visits. In addition, it is also necessary to act in the preparation of manuals, in the publication of books and technical magazines, and in the creation of a computerized documenta-

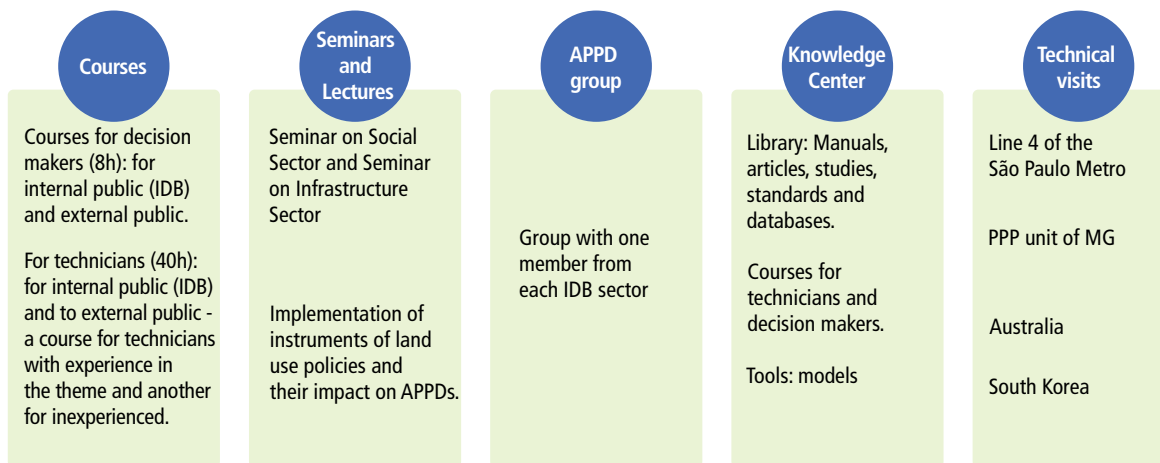
tion center available to the general public through the use of modern communications technology.

To overcome the challenges presented, the IDB has proposed a series of training and capacity-building activities. With regard to direct training activities, should be offered seminars of very short duration (8 hours), short courses of 40 hours, as well as seminars, round tables on topics specifically demanded and technical visits. The 8-hour seminars are intended for decision makers and focus on the most critical topics for the PPAD policy, since this audience will not be able to participate in a more detailed training. The 40-hour courses deepen knowledge and are intended for technical staff with greater availability of time to participate in the training.

As organizational structure, it is proposed to build a Knowledge Center, which will expand the range of training and information activities, as well as serve as a repository of experience on the PPADs. In the short term, face-to-face training activities will take precedence. These activities will be directed to audiences internal and external to the Bank, involved with the projects and the procurement of partnerships. The 8-hour seminars and short courses of 40 hours will be offered to two subgroups: those who already have some basic training on PPAD and needs improvement in relation to technical procedures, and the group whose members are unaware of the PPAD policy.

The figure below presents an overview of the proposed activities for the purpose of dissemination of knowledge about PPADs:

Figure 8: Summary of the Proposed Activities Agenda



In relation to the courses, the proposal offers a framework consisting of four courses, in which two are introductory (one for beginners and the other for technicians with experience), with 8 hours, and two are intended to deepen the knowledge,

with 40 hours (again adapted to people with or without experience).

The table below presents the introductory course for decision makers, without experience in PPA.

Table 10: Introductory course of 8 hours

Target Audience: decision makers without experience in PPA.

Objective: understand the concept of PPA and its power as a tool for financing and management of social and economic services.

Strategy: Conducting seminars and discussions through case studies.

Program:

- The challenge of financing public works and services and the genesis of the Public-Private Alliances.
- PPA concept and its applications in the world and in Brazil.
- PPA models.
- The PPA process.
- Critical factors for the success of PPA.
- Central concepts:
 - Business proposition.
 - Risk management.
 - Value for Money and Public Sector Comparator.

- Project Finance and Special Purpose Company.
- PPA policy.
- National legal framework.
- Critical evaluation of PPA.
- Discussion of case studies.

Source: own production

The next table presents the structure of an advanced course of short duration of 8 hours, for those who already have experience in PPA.

Table 11: Advanced course of 8 hours

Target Audience: Decision makers with experience in PPA.

Objectives:

- Consolidate technical and managerial knowledge about PPA.
- Recognize the limits of the PPA.
- Exploring new ways for the development of PPAs.

Strategy:

- Seminars with debates and discussions through case studies.

Program:

- Critical factors for the success of PPA.
- Managerial and organizational aspects of PPA.
- Economic and financial valuation and fiscal management of PPA.
- Risk assessment and management in PPA.
- Legal reforms and contract design in PPAs.
- Bidding process and contract management in PPA.
- Limitations and criticism.
- Strategies for a second generation of PPA.

Source: own production

The table below shows the structure of a course on PPA topics, with 40 hours of duration, intended for technicians with no experience in PPA. The course objectives are to consolidate technical and managerial knowledge about PPA; recognize the limits of Public-Private Partnerships; and explore new ways for the development of these projects. To do so, lectures and discussions through case studies will be held.

Table 12: Course on topics in PPA of 40-hour for technicians with no experience**Works and public services policy and financing (4 hours)**

- Economic and institutional characteristics of projects of works and public services.
- Legal and economic aspects of the planning of projects of works and public services.
- Modalities for the financing of projects of works and public services.
- Insertion of the private sector in the provision of works and public services through the modalities of PPA.

PPA policy (4 hours)

- Concept, methods, advantages and disadvantages of PPA.
- Institutional Structures of PPA: PPA Unit, Partnership Companies and Councils, Guarantee Funds and Special Purpose Company.
- Flow of the decision process in PPA.
- Legal framework of PPA in Brazil.

PPA projects (4 hours)

- Sectors and international experience with the PPA.
- Managerial and financial profile of the PPA and economic justification of the alliances.
- Financial evaluation of PPA projects.
- Criteria to verify if it is appropriate to develop a project through the PPA: VFM and PSC.
- Definition of the business model.
- Introduction about the process of fiscal management of a PPA.

Examples of PPA (4 hours)

- Logistic projects.
- Energy and sanitation projects.
- Administrative buildings projects.
- Education projects.

Financing of PPA projects (4 hours)

- Concept of Project Finance.
- Financial Market and its procedures.
- Financial structuring of a PPA project
- The investor's decision process.

Analysis and risk management of PPA projects (4 hours)

- Types of risk, allocation, mitigation and risk matrix.
- Financial Evaluation and risk premium.
- Risk management, insurance and guarantees.
- Government considerations.

Legal aspects of PPA (4 hours)

- Preparation and selection of PPA projects.
- Consulting services and preparation of Expressions of Interest.
- The bidding process.
- Key clauses of PPA contracts.
- Evaluation of performance indicators in PPA contracts.
- Collateral contracts and structure of PPA contracts.

Management of PPA Contracts (4 hours)

- Control and oversight of contracts.
- Realization of performance evaluation on contracts.
- Accountability and accounting of PPA: institutional, public and contractual categories; objectives and techniques.
- Management with control bodies.
- Conflict management.
- Intervention, termination and renegotiation of contracts.

Practical lessons (4 hours)

- Successes and failures.
- Critical factors for the success of PPA.
- Critiques to PPA.
- Marketing of PPA.

Evolution of PPA (4 hours)

- Alternative models of cooperation between the public and private sectors.
- Cross-sector alliances.
- Second-generation alliances.
- Future of PPAs.

Source: own production

The table below shows the structure of a course, with 40 hours of duration, intended for technicians that have basic knowledge in PPADs. The aim of the course is to deepen managerial and technical knowledge in PPADs, for the identification, preparation, procurement and implementation of projects. To do so, lectures and discussions through case studies will be held.

Table 13: Course of 40-hour on topics of PPADs for technicians with experience

PART I – Identification of opportunities for PPAs (8 HOURS)

Organization of the selection of projects (4 hours)

- Profile of suitable projects to be carried out through PPA.
- Institutional process of pre-selection and prioritization of PPA projects.
- Organization of a project team.
- Management of the process of elaborating a project.
- Subcontracting of consultancies and studies.

Pre-evaluation of suitability of projects to be carried out through PPA (4 hours)

- Preparation of a draft project.
- Fiscal capacity and acceptability of the fare.
- Preliminary analysis of risks.
- Preliminary financial assessment.
- VFM analysis, PSC.
- Fiscal assessment.

PART II – Preparation of PPA projects (12 HOURS)

In-depth financial evaluation (4 hours)

- Project detailing.
- Basic elements of cash flow: costs, fees, revenue and considerations.
- Indicators of profitability.
- Sensitivity analysis and Value at Risk.
- Calculation of VFM and the PSC.
- Risk assessment (4 hours)
- Identification of risks.
- Risk allocation and risk matrix.
- Risk assessment and risk premium.
- Risk mitigation.

Preparation of bidding (4 hours)

- Bidding modes according to Brazilian law and international practice.
- Expression of Interest.
- Dialogue with the market and bidding invitation mode.
- Drawing of the notice and the draft contract.

PART III – Contracting of projects (8 hours)

• Realization of the bidding (4 hours)

- Process and selection criteria.
- Negotiated selection and auctions.
- Adjudication and completion of the contracting.
- Resources and contestation.

Design of contract (4 hours)

- Key Clauses.
- Risk Clauses.
- Guarantees and payment of the consideration.
- Cash flow control, adjustments and revisions of the tariff of the consideration.
- Interventions, contract reviews and termination.

PART IV – Management of PPA contracts (12 HOURS)

Financial Closure (4 hours)

- Formation of the SPE.
- Financing Pool.
- Economic and financial valuation, including refinancing.
- Financial structuring, including insurance.
- Relations with the capital market.
- Contract management (4 hours)
- Definition of the responsible for contract management.
- Monitoring and negotiated changes in contracts.
- Conflict resolution, arbitration and legal procedures.
- Accountability of contracts.
- Interventions, expiration, assumption, succession and termination of the contract.

Evaluation of the results of the alliance (4 hours)

- Institutional organization of review of partnerships.
- Review process.
- Publication of the results of the review.
- Evaluation and suggestions for the improvement of the PPA policy.

Source: own production

It is necessary that all skilled technicians have the vision of the whole process and of its complexity. The table below presents the segments of the public sector for which it is recommended the participation in specified courses. The lines feature the topics of capacity-building and the columns the segments of the public sector.

Table 14: Recommendation matrix for training courses of 40 hours, on topics of PPA.

| Modules of courses | Finance | Planning | Control bodies | Strategic Affairs | Sector bodies | Private Initiative |
|---|---------|----------|----------------|-------------------|---------------|--------------------|
| Policy of works and public services and its financing | X | X | X | X | X | X |
| PPA policy | X | X | X | X | X | X |
| PPA project | X | X | X | X | X | X |
| Examples of PPA | X | X | X | X | X | X |
| Financing of PPA projects | X | X | X | X | | X |
| Analysis and risk management of PPA projects | X | X | X | | | |
| Legal aspects of PPA | X | X | X | | | X |
| Management of PPA contracts | X | X | X | | | X |
| Practical lessons on PPA | X | X | X | X | X | X |
| Evolution of PPA | X | X | | X | | X |

Source: own production

Examples of sector bodies commonly considered are transportation, cities, regulatory agencies⁷⁰, energy, communications, industry, agriculture, tourism, mining, defense, health, education and justice.

For the advanced course on PPAD topics it is recommend the full participation of the technicians directly involved with the development of these projects. The table below presents the segments of the public sector for which participation in specified courses is recommended.

70. ANVISA, ANA, IBAMA, among others.

Table 15: Recommendation matrix for advanced training courses of 40 hours, on topics of PPA.

| Modules of Course | Finance | Planning | Control bodies | Strategic Affairs | Sector bodies | Private Initiative |
|--|---------|----------|----------------|-------------------|---------------|--------------------|
| Organization of the selection | | X | X | | X | X |
| Pre-evaluation of suitability of the projects to PPA | X | X | X | X | X | X |
| In-depth financial review | X | X | X | X | X | X |
| Risk assessment | X | X | X | X | X | X |
| Preparation of the bidding | | X | X | | X | X |
| Realization of the bidding | | X | X | | X | X |
| Design of contract | | | X | X | X | X |
| Financial closure | X | | X | | | X |
| Contract management | X | X | | X | X | X |
| Evaluation of the results of the alliance | X | X | | X | X | |

Source: own production

Other forms of knowledge transfer should occur through technical visits, according to suggestions of the seminar “PPAD: an instrument of transformation of cities”. Regarding these visits, the closest partner, and which actively works in partnership with the IDB, is the Government of South Korea.

Korea presents a consistent policy of PPADs which has the following success factors: (i) simplified framework and institutional environment; (ii) promotion of the market, but with fiscal discipline; (iii) key role of Ministry of Strategy and Finance, responsible for ensuring a consistent management of projects; and (iv) the existence of an independent PPAD Unit, Center of Investment Management in Public-Private Alliances.

In turn, Australia has to offer a successful experience in the construction of Knowledge Centers, responsible for the diffusion of the culture of Public-Private Alliances. This experience could contribute to the development of a knowledge center of PPADs, responsible for combining the knowledge and experience, in order to make widely available the information on alliances between the public

and private sectors.

In Brazil, the State of Minas Gerais has experience in the development of PPADs and has become a national reference. Thus, it is recommended a visit to Minas Gerais to get the know-how on implementation of PPADs, specifically with respect to the creation of a PPAD Unit.

Still as a form of dissemination of experiences, it is planned the realization of an event within the Cycle of Debates of PPADs that will include the theme Consortial Urban Operation (CUO), one of the most used PPAD instruments. In this event, it will be presented the main results of a survey in which it was analyzed the impact of the capture of capital gains in four areas: land values, land use and density, tax collection and construction of social housing. This research is based on the international literature and on specific case studies in three urban projects in five countries of the region that have most made use of such tools: Argentina, Brazil, Colombia, Ecuador and Uruguay.

Chapter 7: Recomendations

According to the aspects already reported, it is observed that in the short term the political-economic context in Brazil should be marked by the scarcity of resources, generating constraints and difficulties in the implementation of public policies and in the definition of parameters and priorities for the allocation of public resources. On the other hand, the increasing demand mainly generated by the development of the country and by the growth of population, imposes the need of investments to the development and modernization of infrastructure and public services. This increasing pressure imposes the need for definition and consolidation of a regulatory framework for investments involving alternative forms to finance structuring public policies. The search for various options that can address this necessity goes through the support of the private sector as a partner in the financing of the programs defined as priorities by the public sector.

The promotion of Public-Private Alliances for Development seems to be critical to overcome the challenges that limit the Brazilian sustainable economic development, contributing to increase the rates of investment in infrastructure and ensuring long-term economic growth. This

structure is valuable for the public sector because it allows the deferral of investments over time, which provides the possibility of investing in various projects instead of having to focus resources in only one sector. For private entities, the development of these partnerships allows the expansion of the segments in which they can act and provides a better structure of works and services for the development of projects, which contributes to a higher competitiveness of the companies.

However, in the Brazilian context, the development of partnerships between the public and private sectors has occurred slowly and is subject to instability. The implementation of these projects is mainly limited by the need of expanding the technical training related to the development of consistent policies, design and management of projects and contracts. The very notion of contractual risk and of its management in an objective manner needs to be better disseminated and supplant vague notions of contractual balance, given this new context. There is still a need to look for structural causes in order to understand the reasons that led to difficulties for the integration of the private sector in infrastructure investment.

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Overcoming these challenges is important to expand the establishment of alliances between the public and private sectors, in view of the recognized fiscal constraints and the need to develop projects in new areas and sectors in economic consolidation and to modernize, thicken and keep the existing structure in other already consolidated areas. Complex financing mechanisms, such as the PPADs, can only have their application extended if they are object of a national policy that pervade the various administrative bodies of Federal, State and Municipal Governments.

The PPPs emerge as an important tool. In these partnerships, the investment for project implementation is done by the private sector which is also responsible for the provision of the service by means of a proper public consideration, without implying in public debt or expenditure increases, and in association with the risk sharing and a more efficient allocation of resources. From the point of view of public expenditure, a PPP presents an important difference, since the public sector only starts to make payments after the services are available, while in other modes, the expenditures occur from the contracting of works.

As seen throughout this book, there were advances in the number of PPPs in Brazil after the approval of the Federal Law No. 11,079/04, and, for a better use of this instrument, the adoption of some measures described below is recommended:

1. Creation and feeding of a public database on PPP projects, its processes of modeling and performance of contracts, so that, in the medium and long term, it is possible to carry out comparative analyses between this and other methods of procurement, as well as benchmarking between PPP projects.
2. Strengthening of PPP Units, in all government levels, by providing adequate and sufficient human and financial resources to the

development of PPP programs, as well as high level hierarchical position for timely decision making and responsiveness, including homogenization of the knowledge and application of norms.

3. Provision of resources for project modeling, including through revolving funds, which recover the invested resources through reimbursement by the winner of the bidding.
4. Maintenance and dissemination of training activities on PPPs for the public servants of the various government levels, including through the in-service training method.
5. Technical strengthening of public authorities in charge of financial structuring and bankability of projects in the subnational level (development banks, development agencies and bodies or areas specialized in these activities).
6. Resumption, restructuring, and strengthening of the structuring of federal and state mechanisms that act as guarantee fund for Public-Private Partnerships, enabling its effective use as a guarantee of compliance with the public consideration and protection against political risk. The effective structuring of public guarantees is an essential factor of success for the implementation of PPPs.
7. Edition of manuals for guidance of public agents, on relevant topics, such as:
 - 7.1. Roadmap for PPP Analysis, which would address (i) reasons to opt for a PPP; (ii) the necessary technical, economic, financial and legal studies; (iii) qualitative criteria to be evaluated in the process of choosing the procurement means.
 - 7.2. Best practices guide for bidding of a PPP.
 - 7.3. Guide to the structuring of guarantees of payment of public consideration, containing an overview of guarantees in

PPP contracts, and available instruments for risk mitigation, aspects related to the degree of coverage of the guarantees, and addressing the issues related to the provision of guarantees by multilateral bodies.

8. Development of hiring models, which would incorporate best practices, including drafts of public notice and contract, by sector, especially for those of local interest, such as sanitation, urban transport, basic and fundamental education, and health units, in order to reduce the costs in the adoption of best practices by such government entities.

As long-term investments, which have high costs involved, with high specificity of the assets and considerable uncertainty in relations, Public Private Partnership contracts tend to involve considerable amounts related to transaction costs, which makes it necessary to adopt some measures in order to mitigate the risks involved.

A way to allow a proper application of PPPs would be the prioritization of the use of this mode in high-value projects. Although the partnership allows the access of the private sector to new segments, the occurrence, in the country, still focuses on traditional modes of hiring of the private sector, mainly because lower risk exposure and supervision restricted to quantitative factors of contractual objects.

It seems clear the importance of the PPP mode as an alternative to the implementation of public policies in a budget constraint scenario in which there are limitations of the services provided to the population. However, there are aspects in the international experience for the success of these initiatives, especially in relation to the mandatory verification that the PPP is the most efficient choice. The success of the partnership will depend on several aspects that prove the desired efficiency, such as ensuring fair

remuneration to the private partner, fulfilment of financial commitments, implementation of control mechanisms, accountability and transparency and, lastly, examination of the quality of public services provided.

Another distinct instrument, but extremely relevant due to the premise that the investment is primarily financed by the private sector, is the Consortial Urban Operation (CUO), a modality provided for in the Statute of the City. Although it practically occurs only within the municipal level, it is as well as an excellent public administration tool to leverage the urban infrastructure. The CUOs are a set of interventions and measures coordinated by the local government, including the participation of owners, residents, permanent users and private investors, aiming at structural urban transformations, social improvements and environmental valuation, in a given area. It represents a milestone regarding the possibility of realization of major investments, especially related to the infrastructure of the cities.

In the case of Consortial Urban Operations, the financing through Certificates of Additional Construction Potential (CEPACs), when appropriately priced, has been a great solution to meet the approved infrastructure investments, since they are constituted as a fund that can only be used for the purposes laid down in the law that approved the operation. The risks presented, on the basis of the various possibilities available in the regulations of the Statute, shall be mitigated if there is proper supervision of the authorities and civil society, which must require all the technical studies used for the approval of the project, as well as follow the implementation, thus ensuring that the Urban Operation reaches the goal of developing the city both in economic and social aspect.

The control of the projects is also a responsibility of the civil society, which has an important role

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in monitoring the actions involving PPADs. In the CUOs, society must get organized and actively participate in the process of development and execution of the Operation, reducing the risk of occurrence of vices that can derail the CUO and, in the end, bring damages to the population. Civil society actors are representatives of homeowners, tenants, users and private investors, who in the first instance will be the initiators of the process while taking to the local government the demand for the necessary urban improvements, constituting also the private pole of this relationship.

The viability of the projects, either through PPPs or CUOs, both long-term ventures, depends both on the quality of preparation, and on the capacity of the actors involved, whether public or private, to drive these projects according to the provisions of the national legislation. The success of the use of these modalities is directly linked to good design, and to the presence of public managers and private administrators with the necessary qualifications for their conduction.

Considering the previous information, the areas of potential strengthening and support of the Bank in this theme are:

- (i) (i) strengthening of the technical and institutional capital of subnational governments to the implementation and operationalization of these public policy tools;
- (ii) support for states and municipalities in the design and implementation of the institutional framework of the proposed instruments;
- (iii) preparation of guides and reference manuals for the use of the methodology used in Brazil;
- (iv) structuring and implementation of pilot projects of PPP, in the state and municipal level, and of Consortial Urban Operations in the municipal level; and

- (v) assistance in the structuring and strengthening of financial instruments of guarantee mechanisms for relevant projects of subnational and federal entities.

In this way, the benefits to subnational entities will be the financial viability of projects and the training of their technical staff with the strengthening of their institutional framework in the area of project evaluation and procurement of public services. Furthermore, it is believed that the support of the Bank can generate significant business opportunities to the private sector, since they will be providers in long-term contracts of strongly demanded services, bringing important economic reflections and the possibility of jobs and income generation.

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Annex 1: Committee Members

Committee on Public-Private Alliance for Development of the IDB's Country Office in Brazil

Members



Daniela Carrera-Marquis is the IDB Representative in Brazil. She holds a Bachelor's degree in Political Science from the Central University of Venezuela and a master's degree in International Relations and Economics from Johns Hopkins University in Washington.

Venezuelan citizen, Ms. Carrera-Marquis joined the IDB in 2003. With over 20 years of experience in financing and development of financial markets, she was Head of Financial Markets Division of the Structured and Corporate Finance Department, leading the development of lines focused on areas such as climate change, financial inclusion and access to basic services, with operations throughout the region.

She managed the structuring of operations in Brazil aimed at health, education and strengthening of small and medium enterprises. Ms. Carrera-Marquis served as Senior Director of investments with a focus on capital market operations, including the structuring of operations focused on mortgage financing. At ING Bank, in Caracas and London, she was Head of Financial Markets and Specialist Director of Latin America Products, respectively. In these positions she was responsible for the expansion of the presence of public and private Latin American products with ING. Before starting the international career, Ms. Carrera-Marquis worked in the Capital Markets Unit at Confimerca, a local brokerage, and as Relationship Manager at Citibank in Venezuela.



Ana Lúcia Paiva Dezolt is a Senior Specialist of Fiscal and Municipal Management, has worked in IDB in Brazil since 1994 and is currently responsible for overseeing fiscal management modernization projects in Brazilian states. Ms. Dezolt performs the sector dialogue with the Brazilian government on the issues of Public Procurement, is a member of the analysis group on Public-Private Alliances for Development (PPAD) and of the business process reengineering group of the Bank. Areas of expertise: PPAD; procurement management; revitalization of historic areas; decentralization and institutional capacity; tax administration and public finance; people development and knowledge management.

She has papers published in public finance and results-based management. Ms. Dezolt was Professor of International Economic Relations at the Rio Branco Institute/Ministry of Foreign Affairs and Consultant to the Fiscal Policy Series of the Economic Commission for Latin America and the Caribbean/ECLAC, organized in conjunction with the Institute of Applied Economic Research/IPEA (1989/1994). She is Economist at the University of Brasilia/UNB, has a graduate degree in psychology from the Center of University Studies of Brasilia/UNICEUB, has an incomplete master's degree in Economics from UNB, and is specialized in project evaluation and management (IDB).



German Zappani is the Fiduciary Specialist Leader in Financial Management of the IDB. He is responsible for aspects of the financial management of a portfolio of 11.3 billion in Brazil, which includes important initiatives in the field of PPPs. His responsibilities also include: monitoring the fiduciary aspects of the portfolio, developing the Fiduciary Strategy of the National Office, team member in the design and execution of all aspects of financial management of projects and programs in all sectors and at all three levels of government and leading and coordinating the Bank’s strategy for strengthening and using country system. German is a member of a multi-stakeholder team that successfully implemented an action plan for the promotion of PPADs in Brazil. The main initiatives were: relationship and coordination of actions with key stakeholders in the three levels of government, control bodies, the private and financing sectors, participation in the coordination of strategic dialogues, events, cycle of debates, technical assistance, organization of training courses and evaluation of projects. Previously, German was Senior Financial Management Specialist in the IDB’s Country Office in Peru and worked in Washington/DC in the areas of auditing and finances of the IDB.

Before joining the IDB, German worked for seven years at Arthur Andersen Consulting-Argentina, where he led teams of professionals in audit and business consulting related to mergers and acquisitions, credit analysis, implementation of integrated systems, auditing of financial statements and process improvement of the main financial institutions in the region.

German has a master in Finance from the University of Buenos Aires and is an Accountant. He has over 20 years of experience in private and public institutions of Latin America, in areas such as finance, planning and management, auditing, preparation and supervision of investment projects and risk control.



Karisa Ribeiro is a transportat engineer with expertise in urban planning, urban mobility, administration and management of large infrastructure projects, studies of economic feasibility analysis, planning and modeling of transport systems.

Ms. Ribeiro is a PhD in Civil Engineering, Nagoya, Japan, master in Civil Engineering, Nagoya, Japan and bachelor in Civil Engineering, Belo Horizonte, Brazil.

In 15 years of experience working in Brazil, Japan, Australia and New Zealand, Karisa served and coordinated multidisciplinary teams. She sought to develop businesses and various opportunities in the public and private sectors.

Ms. Ribeiro excelled in the areas of: Administration and Project Management, Studies of Economic Viability Analysis, Urban Mobility and Accessibility, Optimization of resources and Capital in large infrastructure projects. Recently, she devoted herself to the design, management and monitoring of large infrastructure projects such as the expansion and concession of the highway of the port of Brisbane (third largest port in Australia) and the realignment of the Road Corridors in the North region of Christchurch, New Zealand.

Currently, Karisa is Transport Specialist at the IDB.



Annette Killmer is Specialist of Natural Resources of the IDB. She joined the Bank as a Young Professional in 2004 and since then has actively contributed to the achievements of the IDB and of its clients on environmental management, conservation, tourism and sustainable production practices, with an emphasis on integrated and innovative management of coastal and marine areas. Since 2011, she has worked on the Country Office in Brazil, leading conservation loans and risk management, strengthening of environmental management and tourism development.

German citizen, she has a PhD and master's degree in environmental management from the University of California, Santa Barbara, and is a graduate in biological sciences from the University of Oxford. Before joining the Bank, she worked in the private sector in Germany and the USA, within academic field, conducted research on environmental management and organizational behavior, she also worked as field ecologist in Costa Rica and Zimbabwe.



Carlos Lago Bouza has been a Specialist of Project Procurement at IDB for 14 years. Since 2010, he has been responsible for the forecasting and procurement of services and goods under the current lending operations in Brazil, also acting as interlocutor with national authorities, responsible for the coordination and analysis of national systems of procurement in the three levels of government. He is a member of the Group of e-procurement of multilateral banks and of the PPAD group of the IDB Country Office in Brazil. Previously, he was coordinator of Procurement for the Andean region.

Mr. Lago Bouza has a Bachelor's degree in Economics from the Universidad Mayor da Republica Uruguai, and a master's degree in Business Administration from the Catholic University Andrés Bello (Caracas, Venezuela), and in e-commerce from Carlos III University (Madrid, Spain).



Cesar Leyva Muñoz has been a Specialist in Operations of the IDB in Brazil since 2011, and Coordinator, for this Country, of the strategy "Sport for Development". He is in charge of the Bank's relations with the private and other sectors for projects related with the social legacy of major sport events.

Colombian citizen, he joined the IDB Office in Europe in 2007. With experience in the area of strategic alliances and resource mobilization, he coordinated the Bank's relations with various international organizations such as OECD, UNESCO, UNODC, and FAO, as well as led relations with Development and Cooperation Agencies of Germany (CHALK) France (AFD), Sweden (SIDA), the Netherlands (SNV), Switzerland (SDC), among others. Before joining the IDB, Cesar Leyva Muñoz was Vice Consul of Colombia in Madrid, Spain and Counselor Minister of the Embassy of Colombia in France. He is a lawyer at the University of La Sabana in Bogotá, Colombia, and has a master's degree (LLM) in Banking, Financial and Economic Law from the London School of Economics and Political Sciences (LSE).

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Clara de Souza Chaves is a historian, graduated from the *Centro Universitário de Brasília (UniCEUB)*, specialist in Quality Management in Services from Fundação Getúlio Vargas and in Management of Social Initiatives by COPPE/UFRJ-SESI. She has Master’s degree in education from the Catholic University of Brasília (UCB).

Ms. Chaves has 24 years of professional experience in management of projects and processes, development of research on the situation in the labor market of vocational education graduates (“follow-up studies”), customer satisfaction surveys and institutional image, training of multipliers in educational assessment and cooperation with the public and private sectors and with civil society organizations.

Between 1991 and 2002, she worked at SENAI-Federal District in implementation of actions and coordination of education of the Professional and Technological Training Center. Between 2002 and 2012, she worked for the CNI System in the Research and Evaluation and Professional Education Units as Manager of the Monitoring System of SENAI’s graduates.

Since May 2012, she has been an IDB consultant in Brazil, and has acted as coordinator of the Information and Cooperation with Civil Society Center, focused on consultations from the civil society, the private sector and public sector. She is responsible for the dialogue with civil society organizations from different sectors and for monitoring possible crises regarding issues related to civil society.



Claudia Regina Borges Nery is a Specialist in Sanitation. She has worked at the IDB in Brazil since 1998, and is currently responsible for the supervision of projects of drainage, water, sanitation and solid waste in cities and states. She performs in Brazil the sector dialogue with the Brazilian Government on the theme of environmental sanitation. Areas of work: construction and/or recovery of water and sanitation systems, urban water management system, solid waste and PPADs.

She was partner and North Northeast Director of the company CSL Consulting and Planning S/C LTDA, in the period of 1985 to February 1998, providing consultancy to municipalities and states in the preparation of the necessary studies to attract financing together with multilateral organizations and in the management of project implementation.



Dino Capriolo is the Leader Specialist in Modernization, has 25 years of experience and progressive responsibility in international development programs and project management. His experience includes 16 years as leader and member of project teams at the IDB, responsible for technical and political dialogue, as well as for the identification, design, evaluation and administration of social and economic development projects of the State Modernization Sector in the offices of the Bank in Argentina and Brazil, in addition to three years in the Organization of American States as part of the diplomatic mission of Bolivia. Dino has knowledge of the socio-economic, political and institutional

context of Latin America, as well as experience in coordination with institutions such as the World Bank, the International Monetary Fund, the United Nations Development Programme, the United Nations Office on Drugs and Crime and the United States Agency for International Development (USAID). He is an economist from the National Autonomous University of Mexico and has a master's degree in development economics from the University of Washington and an MBA from the University Torcuato di Tella in Buenos Aires, Argentina.



Francisco José Ochoa is a Specialist in Social Protection of the IDB based in Brazil's Office. He is responsible for projects aimed at youth, children and provision of basic health services and social protection for low-income families. He currently supports and follow programs in Ceará, Paraná and Rio de Janeiro, among others.

Prior to joining the IDB, Francis worked at the World Bank in a number of social protection projects in Brazil, Colombia and Mexico, among other countries in the region. The focus of these included topics such as income transfers, active labor market policies, as well as the strengthening of social protection networks in Latin America. In addition, Francisco has contributed to research on topics such as the use of incentives for the formalization of the workers and the role of the exit strategies of income transfer programs. Francisco has a Master's in Public Policy from the School of Advanced International Studies of Johns Hopkins University.



Gerardo Reyes-Tagle is a senior fiscal economist in the Fiscal and Municipal Management Division at the Inter-American Development Bank (IDB). He has more than 15 years of experience working in subjects related to tax policy and tax administration, quality of expenditure and debt sustainability.

Over the years, Mr. Reyes-Tagle has led senior-level policy dialogue (e.g. tax policy reforms, fiscal consolidation programs, debt restructuring, institutional capacity strengthening, etc.), key technical assistance, economic sector work and financing operations across the public finance spectrum in Latin America. He has conducted and coordinated programs, analytical studies and technical assistance with the IMF and the World Bank among other multilateral organizations.

Lately, Mr. Reyes-Tagle has focused in the analysis of fiscal risks that can pose threats to the fiscal sustainability in the Latin American region, including those related to macroeconomic fluctuations, natural disasters, public enterprises, exchange and interest rate fluctuations, public private partnerships, etc. He has provided technical assistance in the establishment of risks units within ministries of finance to help strengthening the identification and mitigation of fiscal risks. Prior to joining the IADB, Mr. Reyes-Tagle worked in the Regulatory Energy Commission and the Ministry of Finance in Mexico. He did his Master's in Public Policy and Ph.D in Economics studies at Georgetown University and the George Washington University in Washington, DC.



Guilherme Piereck has been a Specialist of the Unit of Trade and Investment, Trade and Integration Sector of the Inter-American Development Bank, IDB since 2010. He participates in projects to promote tourism and trade, attract investments and support investment agencies.

In the past, he worked for the Law Firms Paul, Hastings, Janofsky and Walker (USA, Washington, DC); Wilmer, Cutler & Pickering (USA, Washington, DC); and Veirano Advogados (São Paulo, Brazil), in the areas of corporate law, mergers and acquisitions and regulatory law. Guilherme is graduated in law from *Pontificia Universidade Católica de Campinas* (1994), and has a specialization in business administration from the Kellogg School of Management (1999) and a master's degree in international law from Northwestern University (LLM 1999). He is fluent in English, Spanish and Portuguese and has advanced notions in Italian.



Ismael Gilio is Brazilian, Economist, has a degree in Political Economics from PUC/SP, and a master's degree in the area of Work and Education from Mackenzie University. He has concluded courses in Argentina, Chile and Spain. He is the author of the book *Work and Education: Vocational Training and the Labor Market*, edited by Nobel. Ismael is a PhD student of Business Administration, in the area of Corporate Sustainable Development, at the FCU/EPHF. He is currently a Sector Specialist of the Multilateral Investment

Fund (MIF), and is responsible for the follow-up of subjects on microfinance, Public-Private Partnerships and local development. He served for fifteen years on the financial and capital market in the state of São Paulo in Brazil.

He was a Professor for 12 years and worked as a consultant in the Ministries of Culture, Health and Education in Brazil, by UNDP and UNESCO. Ismael served as a consultant on the development of social projects in Angola, Africa, with support from the Japanese Fund for Third Countries. He was Director of the consulting company PROEDUC Planning and Projects, with extensive experience in the preparation and analysis of socio-economic projects for the private sector.



Irene Guimarães Altafin é graduada em Engenharia Química pela Universidade Federal de Uberlândia, Minas Gerais, Mestre em Água e Saneamento pela Loughborough University of Techonolgy, Inglaterra; Doutora em Gestão de Recursos Hídricos pelo Programa Colégio Doutoral França Brasil (Universidade Federal do Rio de Janeiro e Université Paris X II). Especialista em Abastecimento de Água (Japan International Water Association); Especialista em Gestão Ambiental (Tufts University of Techonology, USA).

De 1977 a 2003 trabalhou na Companhia de Água e Saneamento do Distrito Federal – CAESB. De 1993 a 2003 trabalhou no Governo Federal na Secretaria de Políticas Públicas (SEPURB) e na Financiadora de Estudos e Projetos (FINEP). Deste outubro, 2008 é especialista sênior da Divisão de Água e Saneamento do BID, representação do Brasil.



Janaina Goulart is a journalist, has a master's degree in communication from the *Universidade Católica de Brasília* (UCB) and is a specialist in Marketing and Digital Communication by the *Instituto de Educação Superior* (IESB). She is dedicated to communication and journalism activities and her research areas are Communication for Development and Digital Communication.

Between 2006 and 2011, she developed consulting activities in communication strategies, public opinion research, campaigns and media relations for the IDB in Brazil, UNICEF in Brazil, among other international and national institutions. During this period, she also performed teaching activities in Communication for graduates. Since January 2012, she has been a Senior Specialist in Communication at the IDB in Brazil, in the Department of External Relations, and implements communications strategies and actions of the Bank in the country.



Jason Anthony Hobbs joined the headquarters of the Inter-American Development Bank (IDB) in 2009, by Young Professionals Program. Today, he is a Senior Associate in Housing and Urban Development and is responsible for the preparation and supervision of urban development and housing projects in Brazilian municipalities. His work is focused on aspects of rehabilitation and revitalization of urban centers, low-income housing, integrated development of degraded areas and improvement of

neighborhoods. He has a Bachelor's degree in Political Science from the University of Maryland Baltimore County (UMBC) and a master's degree in International Development by Brandeis University. Jason worked as a researcher and consultant in Brazil to the United Nations and the World Bank on projects related to monitoring and evaluation of public policies.



José Luiz Rossi Júnior holds a Bachelor's degree in electrical engineering from the *Universidade Estadual de Campinas* (1995), a master's degree in Economics from *Fundação Getúlio Vargas-RJ* (1998) and PhD in Economics from Yale University (2005). He worked as technician of Research and Planning for the IPEA in Rio de Janeiro and as Senior Economist of Banco Itaú. Before joining the IDB, he was a full-time associate professor of Insper, Instituto de Ensino e Pesquisa, former Ibmecc São Paulo, where he

was coordinator of the master in Economics. He has experience in the areas of Economics and Finance, with an emphasis in macroeconomics and international finance, working mainly on the following themes: Exchange Rate, Corporate Finance, Monetary Policy, Fiscal Policy, Productivity and International Business. José Rossi have papers published in national and international magazines.



Judith Morrison has been a Senior Advisor for the Gender and Diversity Division since 2009. She previously served as the Regional Director for South America and the Caribbean at the Inter-American Foundation; Executive Director of the Inter-Agency Consultation in Latin America (IAC) – of the World Bank, IDB and the Ford Foundation; and Director of the Social Inclusion Program at the Inter-American Dialogue.

Her experience working on economic development in Latin America includes the negotiation of agreements to promote development with the private sector in the areas of steel, construction, defense, manufacturing, transportation, and technology in Brazil, Argentina, and Colombia. She negotiated the first eco-development fund with the private sector in Brazil and has worked for over 20 years in Brazil. She was interviewed by Folha de São Paulo, Radio France International, Washington Post, Boston Globe, Miami Herald, NBC, and National Public Radio, among others, and is the author of many articles on economic development with emphasis on the most vulnerable sectors. Judith Morrison has a master’s degree in income distribution and economic development at the Massachusetts Institute of Technology (MIT), where she received the prize Carroll Wilson, and was a Woodrow Wilson fellow.



Laura Ripani is an economist of the Department of Labor and Social Security of the IDB. At the Bank, Laura specialized in the area of the labor market, with an emphasis on improving the labor market opportunities for young people and in the study of the relationship between social protection programs and labor market outcomes. Before joining the Bank, Laura was part of the Group of Poverty and Gender for Latin America and the Caribbean of the World Bank, working in projects related to the labor

market and poverty in Latin America. Laura holds a PhD and a master’s degree in Economics from the University of Illinois at Urbana-Champaign. In addition, she holds a Bachelor’s degree and a master’s degree in Economics from the National University of La Plata. At the University of Illinois, Laura was a researcher at the Institute of Government and Public Affairs, Center for Advanced Studies and Research Institute on Disability, where she worked in several projects related to health economics, disability and welfare economics. Laura also lectured in economics at the University of La Plata.



Luciano Schweizer is an Economist, Master of Science in Business Administration from COPPEAD, and Doctor of Science degree in Production Engineering from COPPE, Federal University of Rio de Janeiro/Brazil.

He has twenty-nine years of professional experience in planning, finance, management and strategy, research, private sector-driven economic development, innovation management and entrepreneurship. He worked as an employee or consultant to various national and international private companies, for the public sector, non-governmental organizations and development agencies, acting in Brazil, Germany, Argentina, Chile, United States, El Salvador, Panama, Paraguay and Dominican Republic.

In February 2006 he joined the IDB where he held the role of Senior Specialist of the Multilateral Investment Fund in Brazil's Country Office until October 2013. Between July 2012 and February 2013, he was the official designated by the Vice Presidency for Private Sector of the IDB to open and occupy the work space of the IDB at FIESP, São Paulo, where he also held the role of Coordinator of the Private Sector in Brazil. Since November 2013, as a result of a competitive selection process, he became the Leader Specialist in Brazil of the Capital Market and Financial Institutions (IFD/CMF) of the IDB.



Marcia C.G. Rocha is a Senior Health Specialist of the IDB Country Office in Brazil. She has a master's degree in Local Development, master in Public Administration (INAP-Spain), and is a candidate for PhD in Development and International Cooperation at the University of Brasilia. Prior to working at the IDB, she worked at the National School of Public Administration as General Coordinator of Special Projects, developing innovative training programs to promote new policies and new strategic areas for the Brazilian Federal Government. She also worked in Belo Horizonte as Manager of Social Policies Planning (health, social protection, education and culture), with a focus on meeting the poorer areas of the city. She was also a project manager for the Avina Foundation, offering technical and financial support to NGOs from various countries of Latin America, with a focus on reducing poverty and promoting gender equality. She taught at the João Pinheiro Foundation, School of Government, in the graduate program in the areas of Social Policy, Government and Public Policy Planning.



Nadia Elisabeth Scharen-Guivel has been, since 2013, responsible for coordinating the private sector of the IDB in Brazil. She has over 15 years of experience and extensive expertise in consulting and structuring of concessions and PPPs in USA, Europe and America, mainly in the energy and infrastructure sectors. She worked as Superintendent and Head of Structured Finance at Credit Agricole Bank in Brazil from 2008 to 2012 and Head of Infrastructure and Logistics of the Project Financing area of Banco

Santander in Brazil from 2005 to 2007. Before that, she worked at the IDB in Washington DC as an Inversion Officer in the sectors of energy and telecommunications from 1999 to 2005. She also worked at KPMG in France and at the World Bank in USA as a specialist in statistics. She has a master's degree in Finance from George Washington University.



Ryan Burgess has been, since 2014, Specialist in Education of the IDB in Brazil. As an Education Specialist, he oversaw the education portfolio of IDB in Panama between 2012 and 2014, in Trinidad and Tobago between 2008 and 2012, and in Suriname between 2008 and 2011.

Between 2001 and 2003, he worked for the Catholic Assistance Services, where he was Director of Educational Programs in Armenia and at regional level in ten countries in South-East Europe. Between 1998 and 2008, he was a consultant on education, childhood and human rights protection for UNICEF and Save the Children, among others. Between 2006 and 2015, he was invited as a speaker on issues of education for young people at risk, education in emergencies, technology and education, education in LAC, by

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Teachers College, Columbia University, the Institute of Peace of the United States, the Clinton Global Initiative University, among others.

He has a PhD in Education for International Development from the Teachers College of Columbia University with specialization in international humanitarian issues, and a master's degree in Teaching and a curriculum of studies in education by Teachers College of Columbia University. He also has a master's degree in International Development Education from Florida International University, and a Bachelor's degree in business with specialization in marketing and international business from Florida International University.



Sylvia Larrea is the Leader Specialist in the Energy Division of the Department of Infrastructure and Environment of the Inter-American Development Bank (IDB). She has over 15 years of experience leading the development of lending operations to support large infrastructure projects, especially in the energy sector in Latin America and the Caribbean. Before being named as Leader Specialist in energy, Mrs. Larrea was an Investment Officer of the Structured and Corporate Finance Department (SCF) of the IDB, responsible for about US\$ 2 billion in structured finance operations. Mrs. Larrea holds a degree in Economics from the University of Lima, Peru, and a master's degree in Business Administration from Marymount University in Virginia.



Thiago Mendes is PhD in sustainable development, has a master's degree in Geography, and a Bachelor's degree in International Relations. He has acquired professional experience in development and environment projects since 1999. Since 2007, has acted as Professor of the Environmental Project Management program (IEC-PUC Minas). Before joining the IDB he was Climate Change and Sustainability Manager of the Ministry of Environment.

He is now part of the panel of experts of the United Nations Framework Convention on Climate Change (UNFCCC), is certified as reviewer of inventories of greenhouse gases, and is a member of the group of experts on National Communications of countries not listed in annex I of the UNFCCC (CGE) and is co-chair of the Executive Committee of the International Mechanism of Warsaw on Losses and Damages of adverse impacts of climate change.



Vanderleia Radaelli is an economist at *Universidade Estadual Paulista* (UNESP), Master and Doctor in Scientific and Technology Policy (UNICAMP). Since 2008 she has led the Bank's policy dialogue in Brazil in terms of competitiveness, science, technology and innovation, through which develops technical relations with high-level authorities in addition to key institutions of the public and private sectors in the country. As part of the strategic positioning of the IDB, Vanderleia Radaelli actively participates in the production and dissemination of knowledge products related to industrial and innovation policies. She is associate researcher of the Industrial Economics Study Group (GEEIN).

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