RAILWAY TRANSPORTATION: PUTTING COMPETITIVENESS ON THE RIGHT TRACK

- *Railway cargo transportation can reduce both dependence on road transportation and the costs of transporting inputs and final goods to companies and consumers.*
- *The railway system adopted in Brazil has led to inefficiencies such as low investment, abandoned railroad tracks and difficulties for interconnecting railroads.*
- *The regulatory model requires adjustments and existing concession contracts need to be renewed to promote the railway network integration, increase investments and solve the problem of underused lines.*

An efficient and well-connected railroad system is a competitive differential in cargo transportation. For Brazil to overcome the existing logistical bottlenecks, it is fundamental to increase the size of the railroad network and the average speed of trains and to improve the system's connectivity.

The operation of Brazil's railroad network is marked by problems and shortcomings, among which the following ones stand out:

- **unsatisfactory performance of concessionaires,** which affects the evolution of the volume of transported cargo and the amount of investment made in the system;
- **lack of market competition;** and
- **difficulties faced in the interconnection** of different networks.

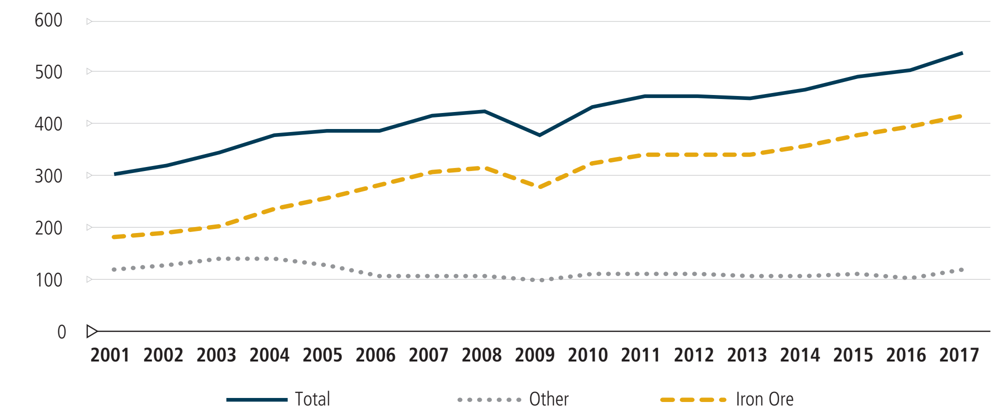
Given the policy failure of building new railways and the deep fiscal crisis Brazil is facing, the focus of the railway transportation policy has shifted to resume investment on improving and expanding the existing network, with emphasis on the early extension of existing contracts. Law 13,448 of June 2017 sets out this guideline.

The early extension of contracts aims at ensuring investments in the sector. Lack of investment is not, however, the only problem affecting railway cargo transportation in Brazil. The concession model and existing contracts require changes to address regulatory shortcomings and promote competition. Otherwise, the early extension of existing contracts will maintain for another 40 years the shortcomings and mistakes observed in the current model.

The main issue to be addressed with the regulatory framework reform is the integration of railway networks under concession. Law 13,488/2017 recognizes the need for greater sharing of the network and provides that contract extensions must be based on the contractual guarantee of transportation capacity to third parties, granted by Brazil's National Land Transportation Agency (ANTT), ensuring the right of way to other operators and also to an independent railway operator. Therefore, apart from addressing the issue of the interconnection between networks, the new law allows intramodal competition in the railway transportation sector.

The effectiveness of the law depends basically on its regulation. ANTT resolutions must review the current regulatory framework and also be used as a reference to new contractual clauses. This review must be completed before existing contracts are formally extended.

EVOLUTION OF RAILWAY CARGO TRANSPORTATION – 2001-2017 (IN MILLION UTS*)



Source: Prepared by CNI based on ANTT data. *Useful Tons.

Main recommendations

1 Concession contracts must be renewed with assured sharing of the railway network capacity. Contracts resulting from the extension of concessions must guarantee a portion of the railway installed capacity to be shared with other concessionaires and with independent railway operators (capacity reserved for third parties). This portion should be periodically reviewed by the Granting Authority:

- in situations where the capacity available to a concessionaire has been fully used and the portion of the capacity reserved for third parties remains idle the contract shall provide for the granting of subsidies by the Federal Administration to the concessionaires that remunerate such idle portion; and
- in stretches of the network that are already close to saturation the capacity reserved for third parties should be gradually implemented and linked to an investment program designed to expand the network.

2 Adjust the current regulatory framework to the actual sharing of the network under concession. The three resolutions issued by the ANTT in 2011, as well as the Rules for the Independent Railway Operator, must be in line with the determinations set out and opportunities afforded by Law 13,488/2017.

3 Increase concessionaires' investments. Contractual clauses relating to investment obligations should:

- contemplate the feasibility of reserving capacity for third parties;
- clearly define the necessary mechanisms to ensure the feasibility of financing investments not contemplated when the contract is extended; and
- address operational difficulties arising from the coexistence of different gauges in the railway network, possibly including an obligation to implement a third track in the list of investment obligations.

4 Address the issue of idle railway stretches. New concession contracts must have guidelines with criteria and deadlines for the following purposes: reactivation by the current concessionaire, give back the stretchs for a new bidding process or its definitive deactivation.

5 Define Valec's dissolution process. The concessions granted to Valec (a State-owned enterprise) through Law 11,772/2008 should be revoked and the company's dissolution process should be reestablished when the process of the sub-concession of the South Tranche of the North-South Railway is completed.

The full version of the document can be accessed through the QR code on the side or at: http://www.cni.com.br/eleicoes2018/downloads/ This summary is part of the series Proposals of Industry for the 2018 Elections comprising 43 documents. The series, which is based on the *2018-2022 Strategy Map for Industry* is a CNI contribution to the new federal administration and presents analyses and proposals of priorities to increase Brazil's competitiveness.

Brasília-DF, July 2018.

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