

Brazilian Federal Government BOOSTS ARBITRATION

Decree 10,025/2019 regulates the use of arbitration and other types of appropriate dispute resolution between Federal Government (and its instrumentalities) and private parties in anticipation of major infrastructure projects in highways, ports and railroads.



ARBITRATION MUST BE (requisites)



seated
in Brazil



in Portuguese



under
Brazilian Law



preferably
administered by
an accredited
arbitral institution

FASTER, SMARTER, BETTER

Check the benefits of arbitration:



familiarity
of foreign
investors with
this mechanism
of dispute
resolution



shorter
time frame
(24 months)
than judicial
courts
(10+ years)



highly
specialized
arbitrators
who provide
innovative and
creative solutions

WHAT IS THE DECREE BOOSTING UP?

Sectors that are listed for arbitration:



highways



ports



railroads



**Arbitration
WILL NOT be confidential:**
Information about
proceedings will be available
to the public, except for
commercially sensitive material

TYPES OF DISPUTES

“Negotiable patrimonial rights”, i.e. any subject matter that can be contracted away, such as:



economic
and
financial
rebalance

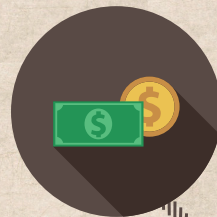


indemnification
arising from
termination or
assignment



default
under the
agreements,
including fines

FINAL ARBITRAL AWARD



1. Payment
by the Federal
Government
subject to
“precatory
system”
(mandatory
order of
payment, in
installments)

2. Payment
may occur
through
economic-
financial
rebalancing of
the agreement,
or by offsetting
contractual
penalties/fines



3. Contracting
party advances
costs of arbitration
(arbitral institution
and arbitrators’
fees) and final
arbitral award
allocates them
according to
the success in
arbitration

4. Mandatory
attorneys’
fees may be
applied, i.e.
10% to 20%
of the amount
in dispute
awarded to the
winning party’s
attorneys*



*contractual attorneys’
fees will not be reimbursed