Trade War

Tariff battles and the infrastructure sector

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The increase in import tariffs on Brazilian products, announced by the United States government, brings widespread impacts on the Brazilian economy. The infrastructure sector is no exception, with both direct and indirect effects on existing contracts and projects under development.

Despite the debate over the permanence of this measure — considering recent examples where tariff hikes were partially or fully reversed — it is important that both the government and concessionaires be prepared to deal with the resulting impact.

Below are some potential effects of the tariff increase and tools that may be used to mitigate losses in concessions.

The decrease in demand

Initially, the tariff increase may directly affect demand in logistics corridors—highways, railways, and ports — since the expected drop in exports tends to reduce cargo traffic. Some studies already estimate a decrease of at least USD 6 billion in Brazilian exports in 2025, and USD 16.5 billion in 2026, if the tariff hike remains in place.

Sectors with high logistics demand, such as agribusiness and mining, may reduce their use of production outflow channels or at least redirect them, depending on the mitigation measures adopted.

In this scenario, if the demand reduction is confirmed, operational revenues projected in concession contracts may drop significantly. The challenge is to manage this abrupt demand variation with the traditional risk treatment in concession contracts.

Concession contracts have only recently begun to address demand risk more cautiously, either by providing sharing bands or by specifying events that may override the general risk allocation to the concessionaire. Most current contracts, however, still assign full risk to the concessionaires, meaning any downward variation is entirely borne by them.

The question regarding tariffs is whether this allocation will prevail or whether other types of risks — such as acts of government (factum principis) or force majeure — will be considered. It is important to note that the demand reduction does not stem from economic uncertainty or general economic conditions, which traditionally justified allocating the risk to the concessionaire.

The parties must be sensitive in addressing the event accurately, considering its exceptional nature. Treating such a situation, with its potentially severe negative impact, under the usual demand risk framework ignores the broader harm that may result from such an interpretation. No demand study, nor the pricing at the time of the proposal, considered a drastic demand drop due to international

trade tariff changes as a potential harmful event. This concern simply did not exist — much like the pandemic risk, which was also overlooked in concession feasibility studies.

Therefore, it is better that each contract be analyzed according to the impact of the tariff increase on projected demand, so that mitigation mechanisms can operate in favor of the contract and service delivery. Adjustments to obligations or performance indicators, and postponement of investments, are tools that can help reduce the losses caused by low demand.

Certainly, accurately quantifying the impact on contracts will require additional efforts and studies to capture what was truly affected by the new international trade environment.

The impact on CAPEX and input costs

If Brazil adopts reciprocal measures — i.e., increases import tariffs on American products — another situation arises with negative effects on concession contracts: the increased cost of acquiring goods, equipment, and inputs necessary for service delivery.

This is especially relevant for concessions still in their initial phase, with more significant capital investments, including the acquisition of goods and equipment. In some sectors, particularly technology, American products remain important.

If this occurs, CAPEX — and OPEX, in terms of operational inputs — costs are expected to rise, particularly in sectors like energy or telecom. This leads to a discussion on how to treat the event, with some similarity to the demand issue, since the risk of increased input costs is also usually fully allocated to the concessionaire.

As with demand, a more refined risk quantification and understanding are needed, recognizing that the abnormal nature of the situation does not allow for simplistic treatment. However, in this case, it is possible to build a more direct understanding based on the risk of government acts and tax changes.

After all, the event stems from a government act that increases burdens, making it easier to classify as a risk absorbed by the granting authority. Thus, restoring the economic-financial balance of the contract tends to be more straightforward—at least from a legal-contractual justification standpoint.

The greater complexity here may arise from impacts on the construction schedule and investment execution, as well as on compliance with obligations and performance indicators. The best financial solution may be to switch suppliers, which, on the other hand, could result in longer execution times due to extended delivery periods for goods and equipment.

Therefore, quantification and mitigation studies must highlight these alternatives, and the granting authority must be sensitive to cases where the concession's viability depends solely on revising deadlines and obligations.