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The port sector and the challenges of maturity

José Augusto Dias de Castro

TozziniFreire's partner in the areas of Administrative Law and Administrative Projects, Infrastructure and Energy

Filipe Camponez Brambilla

TozziniFreire's associate in the area of Administrative Law and Government Projects

The port sector has undergone significant changes in recent decades. These changes stem not only from the maturation of the Brazilian market and a fruitful competitive environment, but also from legislative consolidation that has provided the foundations and legal certainty for national port operations.

To recap, it is worth remembering that Brazilian Federal Law No. 8,630, also known as the Port Modernization Law, dated February 25, 1993, established the legal regime for the operation of organized ports and port facilities. With its enactment, it opened the way for port areas to be subject to private exploitation, a sector that until then was in the hands of state-owned companies.

Given the need for regulatory enhancement, important developments followed for the sector, such as Federal Law No. 10,233, of June 5, 2001, which created the Federal Agency of Waterway Transportation (ANTAQ), and Federal Law No. 12,815, known as the Port Law, of June 5, 2013, which regulates the exploitation by the Federal Government, directly or indirectly, of ports and port facilities and the activities handled by port operators.

Another relevant milestone was the advent of Federal Law No. 14,047, of August 24, 2020, which established, among other advances, that contracts entered into between the concessionaire and third parties, including those for the exploitation of port facilities, will be governed by private law norms. It also provided for the possibility of waiving bidding and direct contracting for cargo handling with a non-consolidated temporary market, which certainly further boosted the sector's growth.

Finally, it is worth highlighting Law No. 14,301/2022, known as BR do Mar (Highway of the Seas), which strongly contributed to regulatory advancement, creating conditions to expand the supply and improve the quality of cabotage transport, encouraging competition and competitiveness.

With this legal framework and the good work carried out by ANTAQ and the various ministries that have managed this area, the sector began to attract more investments and, at the same time, plan port activities more uniformly, both by the public authorities and market agents.

As a result, there are currently approximately 497 port terminals in Brazil, including 230 private use terminals (TUP) located in private ports, and 267 leased terminals in organized ports (public ports), which operate an increasing volume of cargo.¹ In 2024 alone, more than 1.32 billion tons were handled in the sector.²

¹ Data provided by the Portal Aquarela of the Federal Agency of Waterway Transportation (ANTAQ). Available at: <https://aquarela.antaq.gov.br/hub/>. Accessed on Aug. 29, 2025.

² According to institutional disclosure by the Ministry of Ports and Airports in February 2025. Available at: <https://www.gov.br/portos-e-aeroportos/pt-br/assuntos/noticias/2025/02/portos-brasileiros-registram-maior-movimentacao-da-historia-com-132-bilhao-de-toneladas-em-2024#:~:text=PORTOS-Portos%20brasileiros%20registram%20maior%20movimenta%C3%A7%C3%A3o%20da%20hist%C3%B3ria%20com%201,32%20bilh%C3%A3o%20de%20toneladas%20em%202024&text=A%20movimenta%C3%A7%C3%A3o%20portu%C3%A1ria%20no%20Brasil,em%20rela%C3%A7%C3%A3o%20ao%20ano%20anterior>. Accessed on Aug. 29, 2025.

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The waterway mode is a clean, efficient, and inexpensive transport alternative that aligns with global best practices in Environmental, Social, and Corporate Governance (ESG). According to studies conducted by ANTAQ, the road system emits 116kg of carbon dioxide per thousand tons per useful kilometer (TKU), while in the waterway system, the emission is only 20kg.³ The studies also show fuel savings with the use of this mode, since on highways, to transport a thousand TKUs, 96 liters of fuel are needed, while on waterways, only 5 liters are required.

However, despite the remarkable maturation of the national market, our waterway mode is still underutilized. It is estimated that Brazil has more than 60,000 kilometers of navigable hydrographic potential, but only 30% of this extension is commercially exploited (for cargo and passengers).⁴

Part of bridging this gap is linked to economic conjecture issues, such as exchange rates, interest, and taxation; but a relevant portion is still tied to necessary regulatory adjustments. We call these missing steps the “challenge of maturity” of the port sector, which successfully completed the initial phase of shifting from public to private since the 1990s, and is now in the phase of refining (albeit relevant) edges.

Some of these points are present in Bill No. 733/2025, pending before the House of Representatives, in a special committee designated to review it. It is worth highlighting the labor issue of public ports, whose terminals are still required to hire labor from “labor management bodies” (OGMOs), an archaic market reserve that removes competitiveness from public ports compared to their private competitors.

Another highlight in the Bill is regulatory governance. The text provides for greater decentralization of the port’s strategic decision-making power to local port authorities (including strengthening the powers of Port Administration Councils – CAPs), leaving the Ministry of Ports and Airports with general sector ordering power. Some of the powers currently held by ANTAQ (such as promoting terminal bids) are transferred to port authorities, which has generated criticism from the regulatory body. Agency representatives also criticized the provision for a “self-regulation chamber” for certain matters, which is also seen as a reduction in the agency’s supervisory power.

An additional challenge of the port sector’s maturity is the consolidation of competitive understandings. For example, consider the discussion around the STS-10 container terminal in Santos, which will be the largest container terminal in Latin America. There is an intense institutional debate underway regarding the advisability of restricting the participation of companies that currently hold areas in the port of Santos (which, in the case of container terminals, are controlled by large international carriers), given the concern that the concentration of the container transport market may exceed the appropriate limit.

Ongoing regulatory discussions indicate that the bidding will have some type of restriction on broad competition, with the level yet to be determined (for example, whether current incumbents will not

³ Data provided by ANTAQ in a joint meeting with the Federal Senate. Available at: <https://www.camara.leg.br/noticias/111291-antag-de-monstra-vantagens-de-transporte-aquaviario/>. Accessed on Aug. 29, 2025.

⁴ Data provided by the National Confederation of Transport (CNT). Available at: <https://www.cnt.org.br/agencia-cnt/brasil-desperdica-dois-tercos-do-potencial-hidroviario>. Accessed on Aug. 29, 2025.

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be able to participate in the initial phase of the competition, being able to submit proposals if non-incumbents do not show up; or whether they will be able to participate, under the commitment to divest from the lease currently held).

These are relevant discussions, but they stem from a regulatory model already well established in its central characteristics. We are discussing important but not core gaps, which indicates that the model has evolved well so far.