A New Legal Framework for Brazil's Port Sector

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Authors

Ana Cândida de Mello Carvalho

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Bill PL 733/20251, introduced in the Chamber of Deputies on February 28, 2025, by Congressman Leur Lomanto Júnior, is being hailed as the new regulatory framework for Brazil's port sector, governing port operations and related activities, from infrastructure management to labor relations.

One of the bill's headline measures is integrated environmental licensing for public ports, replacing the current requirement for separate licenses for each terminal. It also introduces pricing freedom at port terminals, allowing rates to be negotiated directly between the parties, provided competition rules are respected.

In addition, the proposal reshapes the institutional and contractual framework for the port system. A central feature is the reallocation of responsibilities among the federal government, the National Waterway Transportation Agency (ANTAQ – Agência Nacional de Transportes Aquaviários), and local port authorities, marking a clear shift toward administrative and regulatory decentralization.

Under the bill, the federal government – through the Ministry of Ports and Airports (MPOR – Ministério de Portos e Aeroportos) – retains strategic and regulatory functions, such as planning public policies, preparing sector and general concession plans, defining strategic ports, and delimiting the geographical limits of port authority districts. MPOR will also establish guidelines for port authorities to draft their Port Operations Regulation (REP). The Federal Government (through MPOR) will be responsible for conducting the bidding procedures for the concession of public ports. The operation of public ports may be delegated to States and Municipalities, provided that the requirements set forth in Law No. 9,277 of May 10, 1996 are observed, and that its management is carried out by a state-owned or a mixed-capital company belonging to the delegated federative entity.

ANTAQ, for its part, will have its operational and regulatory powers expanded. The agency will be responsible for authorizing private-use terminals (TUPs – Terminais de Uso Privativo), small facilities, and transshipment stations outside public port districts. It will also manage lease agreements, approve changes in corporate control, set technical standards, and authorize contractual amendments such as changes in cargo type, expansion or replacement of leased areas, contract consolidation, and revised investment schedules. ANTAQ will also have regulatory authority over private investments outside public ports and in common-use areas within those ports.

The guiding principle of the allocation of authority proposed by Bill PL 733/2025 is clear: the federal government sets national policy and strategic guidelines, ANTAQ retains regulatory and oversight authority, and local port authorities handle day-to-day management with the flexibility to adapt solutions to regional needs.

The bill also addresses a gap in the rules governing the duration of concession and lease agreements: they can be extended for up to a total of 70 years, including the initial term. While the existing Port Regulations (Decree 8.033/2013 as amended by Decree 9.048/2017[2]) already allow new contracts to have 70-year terms, the Federal Public Accounts Tribunal (TCU – Tribunal de Contas da União) has taken the position that the governing legislation – not a regulation – must expressly provide for the extension of existing agreements. Bill PL 733/2025 removes this restriction, enabling current contracts to be adapted.

In redesigning the port sector's legal framework, Bill PL 733/2025 makes changes to the regulatory structure that focus on administrative decentralization and contractual flexibility. The proposal is now under review in the Chamber of Deputies and awaits a report by Congressman Arthur Oliveira Maia in the Special Commission. If the bill is approved, it will move on to the Senate and then to presidential sanction.

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NOTES
1. https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2485830

2. https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/decreto/d9048.htm

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Ana Cândida de Mello Carvalho