

Brazil Infrastructure Law International Commerce And Arbitration

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The Brazilian Constitution of 1988 established a new scenario for Brazilian socioeconomic development. Since 1988, the Brazilian legal framework has strongly fostered national and international companies' investment in infrastructure through concessions and the privatization of several sectors—logistics, electric power, sanitation, oil and gas, mining, and telecommunications, among others.

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This new backdrop where the private sector has been playing an important role in long-term financings in Brazil has been made even more attractive by Law No. 12,431, enacted on 27 June 2011, which establishes tax incentives for Brazilian and foreign investors in connection with certain debentures regarding infrastructure projects issued in the local market.

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The applicable law to e-commerce in Brazil is mainly based on consumer protection. This is why companies must follow rules regarding information, transparency and security. There are special regulations for specific fields of e-commerce, such as those involving health, foodstuffs, marketing, and credit systems.

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Marçal Justen Filho is the founder of Justen, Pereira, Oliveira & Talamini - Advogados Associados and for the past 25 years has led it to grow into a leading law firm in the fields of regulation, infrastructure and government contracts in Brazil. He is internationally acknowledged as a prominent specialist and has been repeatedly nominated as a distinguished lawyer in the areas of public procurement and infrastructure by peer-appointed Who's Who Legal and its Brazilian counterpart Análise ...

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The concession agreements of three recently privatised airports contain clauses submitting any disputes to International Chamber of Commerce arbitration, sending a clear pro-arbitration message to all interested foreign investors. However, the draft agreements for two relevant upcoming projects indicate that the government may have shifted its position on arbitration in major infrastructure works.

~~Bumps in the road to infrastructure arbitration ...~~

According to International Chamber of Commerce data, Brazilian arbitrations accounted for 41% of all arbitrations in Latin America in 2014 and 4.29% of the total number of arbitrations in the world in 2013. In addition, São Paulo is classified as one of the top ten venues for arbitration in the world.

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